

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)	3:14-CR-340-K
Government,)	
)	
VS.)	DALLAS, TEXAS
)	
TREVEON DOMINIQUE ANDERSON)	
and JIMMY HATCHETT,)	
Defendants.)	October 24, 2018

TRANSCRIPT OF JURY TRIAL VOLUME 3
BEFORE THE HONORABLE ED KINKEADE
UNITED STATES DISTRICT JUDGE

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1 JURY TRIAL VOLUME 3 - OCTOBER 24, 2018

2 P R O C E E D I N G S

3 THE COURT: How are you this morning?

4 THE WITNESS: Good, Your Honor. How about yourself?

5 THE COURT: Good. Good. Good.

6 Have you got water down there?

7 THE WITNESS: I'm good.

8 THE COURT: Okay. Good. All right.

9 MR. LUND: Ready to proceed, Your Honor.

10 THE COURT: I knew you were.

11 And -- off the record.

12 (Discussion off the record)

13 SECURITY OFFICER: All rise for the jury.

14 (Jury in)

15 THE COURT: Thank y'all. Y'all be seated.

16 Appreciate it.

17 All right. Mr. Lund.

18 MR. LUND: Agent --

19 THE COURT: The witness was passed, and now it's
20 cross-examination.

21 CROSS-EXAMINATION

22 BY MR. LUND:

23 Q. Agent, good morning.

24 A. Good morning.

25 Q. I'd like to show you Defendant's Exhibit 103, which was

1 previously admitted into evidence.

2 A. Okay.

3 (Pause)

4 MR. LUND: Ms. Lee, Defendant's --

5 MS. LEE: Okay.

6 BY MR. LUND:

7 Q. At the top here, can you read what this says at the very
8 top?

9 A. "Facebook Business Record."

10 Q. As an FBI agent, have you previously reviewed Facebook
11 business records?

12 A. Not a lot, but I have a little.

13 Q. Okay.

14 MR. LUND: If I could have the whole image again,
15 Ms. Lee.

16 (Pause)

17 BY MR. LUND:

18 Q. Will you generally agree with me that this is generally a
19 bag with some money in it?

20 A. Yes, sir.

21 Q. At the bottom here --

22 MR. LUND: If I could have just this text at the
23 bottom, please, Ms. Lee.

24 BY MR. LUND:

25 Q. There's a comment here where -- there's a name next to

1 "user" where I'm highlighting. What is that name?

2 A. Oh, where it says -- it says Cheryl Austin.

3 Q. Are you aware that Cheryl Austin was Mr. Hatchett's
4 girlfriend in 2013?

5 A. No, sir.

6 Q. So you were not here in court when that testimony was
7 heard previously?

8 A. No, sir.

9 Q. Can you please read the text?

10 A. "I like. Thank you baby."

11 Q. And so that's a comment that was left by Ms. Austin
12 apparently in this Facebook photo?

13 A. Okay.

14 Q. Thank you.

15 MR. LUND: May I please have Defense Exhibit 102,
16 which was previously admitted into evidence, and if you could
17 jump directly to page 19.

18 (Pause)

19 BY MR. LUND:

20 Q. While that's coming up, you're familiar with the name
21 Hilton Aitch, are you not?

22 A. Yes, sir.

23 Q. That's one of the individuals whose cell phone records you
24 analyzed, correct?

25 A. Yes, sir.

1 Q. Do you see at the top --

2 MR. LUND: I apologize. Page 19.

3 MS. LEE: Is this not the correct, page?

4 MR. LUND: It's not.

5 MS. LEE: Okay.

6 (Pause)

7 MR. LUND: Scroll to the Hilton Aitch page, please.

8 MS. LEE: Okay.

9 (Pause)

10 BY MR. LUND:

11 Q. Okay. Here we go.

12 Now, at the top here where it says "name," do you
13 recognize this name?

14 A. It says Hilton -- well, Aitch, Hilton Murdock.

15 Q. And you understand that's the same gentleman whose cell
16 phone records you reviewed, correct?

17 A. Yes, sir.

18 Q. I'm pointing here at the top where it says, "United States
19 Marshals Service."

20 If I told you these were admitted as certified United
21 States Marshals records, you wouldn't have any reason to doubt
22 me, would you?

23 A. No, sir.

24 MR. LUND: At the bottom of this page, if I can,
25 Ms. Lee.

1 MS. LEE: Yes, sir.

2 BY MR. LUND:

3 Q. Where it says, "custody information" down here, do you see
4 that?

5 A. The custody start date?

6 Q. Yes.

7 A. Yes, sir.

8 Q. You don't have to read the date. I'm just looking for the
9 custody information.

10 MR. LUND: If I could go forward two pages, please.

11 BY MR. LUND:

12 Q. Now, this is a little more difficult to see, so if we can
13 blow it up. This lists --

14 MR. LUND: Actually, a little higher. Sorry. Near
15 the top. I apologize. Right there. Thank you.

16 BY MR. LUND:

17 Q. Now, this lists a number of different facilities, correct?

18 A. Cell block, Montgomery County, Kaufman County, Fannin
19 County, Johnson County, so, yes, sir.

20 Q. Do you see then here where it says, "FCI Seagoville
21 Detention Center"?

22 A. Yes, sir.

23 MR. LUND: And if I could please go back out and see
24 the bottom part of this page. I'll show you where. It's this
25 second part right here.

1 BY MR. LUND:

2 Q. And you see again here it says, "FCI Seagoville Detention
3 Center"?

4 A. Yes, sir.

5 Q. It says "admit." Is that date 9-20-18?

6 A. It's kind of blurry, and it's kind of broken up, but I
7 don't see any reason why it wouldn't be if that's the date
8 you're saying.

9 Q. And then the release date is blank, correct?

10 A. Yes, sir.

11 Q. Thank you.

12 Now, I would like to move back on --

13 MR. LUND: I appreciate that. I'm finished with that
14 exhibit.

15 BY MR. LUND:

16 Q. With regards to your analysis in this case, you went
17 through a number of call detail records for Mr. Hatchett,
18 correct?

19 A. I only had toll records for the phone associated with
20 Mr. Hatchett.

21 Q. That's correct. And that's different than the cell site
22 data that you had for other individuals, correct?

23 A. Yes, sir.

24 Q. So because you only had the toll records, you cannot say
25 where Mr. Hatchett's phone was on November 17, 2013, correct?

1 A. No, sir.

2 Q. And you certainly couldn't say where Mr. Hatchett was on
3 those dates, correct?

4 A. No, sir, I can't say anything about that.

5 Q. You had two different slides in your presentation
6 yesterday. I believe they were 36 and 37. And they showed two
7 different spreadsheets regarding the toll records you had for
8 Mr. Hatchett. Do you remember those?

9 A. Yes, sir.

10 Q. You reviewed -- you reviewed the whole amount of records
11 from Mr. Hatchett, correct?

12 A. I just looked mainly during the days, the couple of days
13 around the offense. I didn't review the whole record.

14 Q. But you had access to the whole record?

15 A. Yes, sir.

16 Q. And so you instead reviewed part of the record and put
17 that in your report, correct?

18 A. Yes, sir.

19 Q. And you were directed to do so?

20 A. Yes, sir.

21 Q. So you wouldn't be aware that there were calls between
22 Mr. Hatchett and Messrs. Aitch and Thompson from other days?

23 A. I did see that there were other calls on those other days.

24 Q. You did see them, so you're aware of some. You're just
25 not sure how many?

1 A. Yes, sir.

2 Q. All right.

3 MR. LUND: May I please have the spreadsheet,
4 Government's Exhibit 27?

5 If I can scroll to the very top, line 1.

6 BY MR. LUND:

7 Q. First of all, do you recognize this spreadsheet generally
8 as the toll records that you're referring to for Mr. Hatchett's
9 cell phone?

10 A. Yes, sir.

11 Q. If we go up to the very top, you can see that this is a
12 date of 11-10-2013?

13 A. Yes, sir.

14 Q. Is it fair to say that's where the records start?

15 A. That's when they -- and if you'll see, it says, "date of
16 call." That's in Pacific Time.

17 Q. Yes.

18 A. But yes.

19 Q. So you're saying -- I understand your -- your point is
20 absolutely correct about Pacific Time versus Central Time, but
21 this day is when the records start, correct?

22 A. Yes, sir.

23 MR. LUND: At the very bottom line, 961.

24 BY MR. LUND:

25 Q. And the records run all the way, it looks like, down to

1 11-24; is that correct?

2 A. Yes, sir.

3 Q. It's about 15 days' worth of records?

4 A. Yes, sir.

5 Q. So this is obviously a broader range than the time period
6 that you included in your chart, which was just a few hours,
7 correct?

8 A. I -- I did about 12 hours or so, yes, sir.

9 Q. All right. And you obviously haven't looked at all these
10 records, so I'm just going to point out a few to you briefly.

11 MR. LUND: If I may please have line 154.

12 (Pause)

13 MR. LUND: Thank you.

14 BY MR. LUND:

15 Q. Line 154. This number right here, you recognize this as
16 Mr. Hatchett's number, correct?

17 A. That's the number I was provided for Mr. Hatchett.

18 Q. Now, all of these -- this whole column, because it's the
19 records for Mr. Hatchett, C is always the same number, correct?

20 A. Yes, sir.

21 Q. Now, over here, this is the number that this particular
22 line, 154, is identifying, correct?

23 A. That is the number -- it was an outgoing call.

24 Q. Uh-huh.

25 A. So that's the number that the phone associated with

1 Mr. Hatchett dialed.

2 Q. And this is Hilton Aitch's phone call, correct -- phone
3 number, correct?

4 A. 832-887-2763. Yes, sir.

5 Q. And the date is 11-12-13?

6 A. Yes, sir.

7 MR. LUND: If I could have line 170, please.

8 BY MR. LUND:

9 Q. Line 170, right here. I'm going to skip over some of
10 this, because we said this number is always the same, of
11 course. This is column C on the left.

12 And then over here, we have the same number listed
13 twice. That's Hilton Aitch's number, correct?

14 A. Yes, sir. There was an outgoing call, and then there was
15 an SMS pretty much almost at the same time.

16 Q. SMS is a text message commonly referred to as, correct?

17 A. Yes, sir.

18 Q. And the date on this is 11-13?

19 A. Yes, sir.

20 MR. LUND: If I could have line 200, please.

21 BY MR. LUND:

22 Q. I'm going to try to do this one in a little bit of a
23 bunch, but stay with me here.

24 we know that column C is always the same.

25 we know that over here this is Hilton Aitch's phone

1 number again, correct?

2 A. Yes, sir.

3 Q. This is line 200. And that's 11-13-13, the same day,
4 correct?

5 A. Yes, sir.

6 Q. Now, if I show you line 207, same number?

7 A. Yes, sir.

8 Q. 209, same number?

9 A. Yes, sir.

10 Q. 210, same number?

11 A. Yes, sir.

12 MR. LUND: May I please have line 249?

13 BY MR. LUND:

14 Q. All right. Line 249. It was on 11-13 before. Now I'm on
15 11-14, correct?

16 A. Yes, sir.

17 Q. And, again, column C is the same. It's still
18 Mr. Hatchett's number?

19 A. These are the records for Mr. -- the phone associated with
20 Mr. Hatchett.

21 Q. All right. And over here we see, once again, this is
22 another outgoing call to Hilton Aitch at line 249, correct?

23 A. Yes, sir.

24 MR. LUND: May I please have line 593?

25 BY MR. LUND:

1 Q. Now, you can see here, agent, as we're scrolling through
2 to line 593, we're scrolling over the three days: 11-16,
3 11-17, 11-18. And I'm doing that because those are some of the
4 days that were reflected in your already done work, correct?

5 A. Yes, sir. I started on the 16th and then rolled through
6 the 17th.

7 Q. All right. So I'm going to save the jury a little bit of
8 time here. We're going to go to line 593.

9 And as you can see, we're now on 11-19, correct?

10 A. Yes, sir.

11 Q. This is, again, Hilton Aitch's number, correct?

12 A. Yes, sir.

13 Q. It's a terminating phone call?

14 A. Yes, sir. That means it was -- terminating means an
15 incoming call.

16 Q. All right.

17 MR. LUND: If I could have line 629.

18 BY MR. LUND:

19 Q. Now, line 629 -- thank you. We look at line 629 and 631
20 together. Both 629 and 631 are 11-19, correct?

21 A. Yes, sir.

22 Q. The number is the same, Hilton Aitch's number for both,
23 correct?

24 A. Yes, sir.

25 MR. LUND: If I may have line 687, please.

1 BY MR. LUND:

2 Q. 687, we're now on 11-20, correct?

3 A. Yes, sir.

4 Q. So the next day. This is now Hilton Aitch's phone number
5 again, correct?

6 A. Yes, sir.

7 Q. If I may briefly show you 692. I don't need to move it
8 because we can see, once again, it's the same day, 11-20. And,
9 again, it's Hilton Aitch's phone number, correct?

10 A. Yes, sir.

11 Q. Once again, 694, Hilton Aitch's phone number once again.
12 The same day, correct?

13 A. Line 694, sir?

14 Q. 694. Yes. I'm happy to highlight it if I did that too
15 quickly.

16 A. No. I just -- you -- I missed which line you were talking
17 about.

18 No, that is another call associated between
19 Mr. Hatchett's phone and phone associated with Mr. Aitch.

20 Q. Thank you, agent.

21 MR. LUND: I'd like to go to line 710, please.

22 (Pause)

23 BY MR. LUND:

24 Q. Line 710, this is, again -- this is -- now the date is
25 11-21, correct?

1 A. Yes, sir.

2 Q. This is Hilton Aitch's number?

3 A. Yes, sir.

4 MR. LUND: Line 837, please.

5 BY MR. LUND:

6 Q. 837 and 838 you'll actually see are both the same Hilton
7 Aitch number, correct?

8 A. Yes, sir.

9 Q. The date is now 11-22?

10 A. Yes, sir.

11 Q. So we're now five days after the Tilak robbery?

12 A. Yes, sir.

13 MR. LUND: Line 897.

14 (Pause)

15 MR. LUND: 897. Thank you very much.

16 BY MR. LUND:

17 Q. We're now at 11-23. This is, again, a phone call with
18 Hilton Aitch's cell phone, correct?

19 A. Yes, sir.

20 MR. LUND: And line 948.

21 BY MR. LUND:

22 Q. So on line 948, we have, once again, Hilton Aitch's cell
23 phone?

24 A. Yes, sir.

25 Q. A terminating voice call with that number?

1 A. Yes, sir.

2 Q. The date is 11-24?

3 A. Yes, sir.

4 Q. So that means that from what we just reviewed and from
5 what you reviewed previously that was shown to the jury
6 yesterday, there are 15 days of records for Mr. Hatchett's
7 phone and 12 of those 15 days he's contacting Mr. Aitch,
8 correct?

9 A. I -- I wouldn't be able to say the total number of days of
10 contact, but there also was contact the day of -- the day
11 before the robbery and the day of the robbery later in that
12 day. But there is contact throughout the records, obviously,
13 with that number, which obviously they know each other.

14 Q. If I were to represent to you that I did the math before
15 coming to court and that was 12 out of 15 days, would you have
16 reason to doubt me?

17 A. No, sir.

18 Q. Thank you.

19 If I may now then talk about Terrence Thompson.

20 There were also phone records that you analyzed for Terrence
21 Thompson's phone, correct?

22 A. 713-924-8841?

23 Q. Yes, sir. That's a number that you believe was associated
24 with Terrence Thompson based on your work in this, correct?

25 A. Yes, sir.

1 Q. All right. And, again, you analyzed the same days and the
2 same time period as we did previously with Mr. Aitch, correct?

3 A. Yes, sir.

4 MR. LUND: Now, if I may have line 121, please,
5 Ms. Lee.

6 MS. LEE: Mr. Lund, which one of the Government's
7 exhibits?

8 MR. LUND: Oh, I'm sorry. This is the same
9 Government's exhibit, line 121.

10 MS. LEE: Oh, I'm sorry.

11 MR. LUND: I appreciate that.

12 BY MR. LUND:

13 Q. Just to be clear, agent, I have not changed Government's
14 exhibits, correct?

15 A. No, sir.

16 Q. These are still Mr. Hatchett's call detail -- toll logs
17 that you reviewed?

18 A. Yes, sir. They're still the toll logs, yes.

19 Q. So line 121 here. We can now see that, again, column C
20 has not changed, because these are still Mr. Hatchett's
21 records, correct?

22 A. Yes, sir.

23 Q. Back to 11-12, five days before the Tilak robbery,
24 correct?

25 A. Yes, sir.

1 Q. What's the number this time?

2 A. 713-924-8841.

3 Q. And that's the phone number that you've associated with
4 Terrence Thompson previously, correct?

5 A. Yes, sir.

6 Q. Well, without moving this, I'm going to show you line 127.
7 Is this another same phone -- same phone number, Terrence
8 Thompson's phone number?

9 A. Yes, sir.

10 Q. Is this another terminated phone call?

11 A. Terminating, yes, sir.

12 MR. LUND: Scroll up just a little bit to line 130.

13 BY MR. LUND:

14 Q. 130. I'm going to show you, once again, the same date,
15 11-12-2013. The same phone number, correct?

16 A. Yes, sir.

17 Q. So that's, again, Terrence Thompson's phone number?

18 A. That's the phone associated -- that I was told associated
19 with Mr. Thompson.

20 Q. That's a tongue tier. I understand.

21 MR. LUND: Line 153, please, Ms. Lee.

22 BY MR. LUND:

23 Q. Line 153 and 155 I'm going to show you briefly together.

24 The phone number for 153 matches the phone number for
25 155, correct?

1 A. Yes, sir.

2 Q. That's, again, Terrence Thompson's phone number?

3 A. Yes, sir.

4 MR. LUND: Line 172, please.

5 BY MR. LUND:

6 Q. Line 172, the date has changed. We're now at 11-13,
7 correct?

8 A. Yes, sir.

9 Q. The phone number is still the same, Terrence Thompson's
10 phone number, outgoing phone call?

11 A. Yes, sir.

12 Q. Line 173, directly below it, is the same number, correct?

13 A. Yes, sir.

14 Q. Separate outgoing phone call?

15 A. Sorry, sir?

16 Q. Separate outgoing phone call?

17 A. Yes, sir.

18 Q. Thank you.

19 MR. LUND: Line 596, please.

20 BY MR. LUND:

21 Q. And, agent, once again, I'm moving past. As you can see
22 as we scroll through the dates of 11-16 and 11-17, that was
23 part of your analysis. You understand that, correct?

24 A. Yes, sir.

25 Q. Line 596 will show --

1 MR. LUND: Thank you, Ms. Lee, for your assistance.

2 BY MR. LUND:

3 Q. Line 596, we now have -- is this the same phone number we
4 looked at before for Terrence Thompson?

5 A. Yes, sir, it is.

6 Q. The date is now 11-19?

7 A. Yes, sir.

8 Q. It's another outgoing call?

9 A. Yes, sir.

10 Q. Line 598, two lines below it, is that another phone call
11 of Terrence Thompson?

12 A. Yes, sir, it is.

13 MR. LUND: If I may have line 611, please.

14 BY MR. LUND:

15 Q. Line 611, once again, 11-19. This is the same outgoing
16 number for Terrence Thompson, correct?

17 A. Yes, sir.

18 Q. It's an outgoing phone call?

19 A. Yes, sir.

20 Q. Go down here to line 614. Do you recognize this same
21 number?

22 A. Line 614, yes, sir.

23 Q. Separate outgoing phone call?

24 A. Yes, sir.

25 MR. LUND: If I may have line 840, please.

1 BY MR. LUND:

2 Q. 840, we've now gone to a different date.

3 If you can tell, the date is now 11-22; is that
4 correct?

5 A. Yes, sir.

6 Q. This is, once again, a separate outgoing phone call to the
7 same number?

8 A. Yes, sir. It's another outgoing phone call from the --
9 the phone associated with Mr. Hatchett to the phone associated
10 with Mr. Thompson.

11 Q. So, once again, as before with Hilton Aitch's records, it
12 seems from these that they knew each other, correct?

13 A. Yes, sir.

14 Q. They were phone calls well beyond what you were told to
15 analyze, correct?

16 A. Yes, sir.

17 MR. LUND: Thank you. No further questions, Your
18 Honor.

19 MR. DE LA GARZA: Nothing more for Agent Sedwick,
20 Your Honor.

21 THE COURT: Mr. Martin?

22 MR. MARTIN: Nothing more, Your Honor.

23 THE COURT: All right. Can we let this gentleman be
24 excused?

25 MR. LUND: Yes, Your Honor, absolutely.

1 MR. DE LA GARZA: No objection.

2 MR. MARTIN: Yes, Your Honor.

3 THE COURT: You're excused. Thank you, sir.

4 THE WITNESS: Thank you, Your Honor.

5 (Witness excused)

6 THE COURT: Okay. Are you ready to call your next
7 witness?

8 MR. JUNKER: Your Honor, at this time the Government
9 rests.

10 (Government rests)

11 THE COURT: All right. Mr. Lund, Mr. Rogers, there
12 are some matters we need to take up outside.

13 MR. LUND: There is, Your Honor.

14 THE COURT: All right. This shouldn't take too long,
15 and you've got doughnuts back there. So -- no more doughnuts.
16 I'm sorry, I didn't send enough in. They were big doughnuts,
17 though. We'll bring you back out. And I'll send word in if
18 it's going to take a long time. I don't think that it will.

19 Thank y'all very much. Don't talk about the case.

20 All right.

21 SECURITY OFFICER: All rise.

22 (Jury out)

23 THE COURT: Mr. Lund, do you want to go?

24 MR. LUND: If I may, Your Honor. Thank you.

25 Comes now the Defendant, Jimmy Hatchett, in

1 accordance with Rule 29 of the Federal Rules of Criminal
2 Procedure. The Defendant asks for a finding of not guilty as
3 to all counts of the Fifth Superseding Indictment.

4 with regards to all counts, there is no reliable
5 evidence that would prove that Mr. Hatchett was one of the
6 robbers in question. The Government's evidence on that point
7 is limited to phone records which do not demonstrate
8 participation in the robbery and a vague Facebook record which
9 at best only indicates that Mr. Hatchett was leaving the
10 Houston area, not that he was going to rob a store in Dallas.

11 Beyond that, the Government's only evidence in this
12 matter against Mr. Hatchett consists of co-defendant witnesses
13 who were attempting to gain a benefit for their testimony.

14 THE COURT: Slow down just a little bit.

15 MR. LUND: Yes, Your Honor.

16 And are, therefore, not inherently reliable.

17 Unsubstantiated co-conspirator testimony cannot form
18 the basis of a conviction in this matter; and, therefore, the
19 Court should enter verdicts of not guilty on all counts.

20 Additionally, with regards to the two kidnapping
21 counts, the evidence as presented by the Government simply does
22 not constitute a kidnapping. Even if the Court were to believe
23 that Mr. Hatchett was one of the robbers in question, the
24 evidence was that the store owners were tied up but not moved,
25 transported, or otherwise confined to any location. Further,

1 they were not held in the manner contemplated by the kidnapping
2 statute. Instead, they were zip tied in order to allow a
3 robbery to transpire. This is a grossly overly broad use of
4 the kidnapping statute and is not supported by the evidence.
5 The Court should enter not guilty verdicts on Counts Four and
6 Five.

7 Thank you, Your Honor.

8 THE COURT: All right. Ms. Hill?

9 Mr. Martin?

10 MS. HILL: Your Honor, without taking any further
11 time, we also are in agreement with what the defense just asked
12 for. We are also asking --

13 THE COURT: So you adopt everything he said, too?

14 MS. HILL: Everything he said, Your Honor.

15 THE COURT: All right.

16 MS. HILL: And are asking for the same relief.

17 THE COURT: All right. Government?

18 MR. JUNKER: Your Honor, addressing the -- everything
19 except for the kidnapping counts, first, Your Honor, overall
20 counsel has argued basically credibility issues that are for
21 the jury to decide. The Court's own instruction instructs the
22 jury that if they believe the co-conspirators, that their
23 testimony alone is enough for a conviction, contrary to what
24 counsel argued.

25 It's a -- there's been sufficient facts, evidence,

1 and testimony to base a verdict of guilty on all the charges
2 before the jury should they decide the credibility issues in
3 favor of the Government.

4 As to the kidnapping charges, Your Honor, the
5 Government disagrees as to counsel's characterization of the
6 kidnapping charges. I know that the Court has expressed some
7 concern about those charges. Let me say this. First of all,
8 the kidnapping statute was amended in 2006 by the Adam Walsh
9 Act. It --

10 THE COURT: By the -- say it again a little slower.

11 MR. JUNKER: It was amended in 2006 by the Adam Walsh
12 Act.

13 THE COURT: Yes, sir.

14 MR. JUNKER: And that Act added the elements that the
15 Government is proceeding under, in other words, that you can
16 use an instrumentality of interstate commerce to infer that it
17 basically is part of the kidnapping scheme.

18 At that time Congress recognized that that was going
19 to enlarge, substantially enlarge the reach of the kidnapping
20 statute, and they passed it with that in mind.

21 Now, when they passed the Adam Walsh Act, some of the
22 things that they passed was sex offenses and were specifically
23 targeted towards sex offenses involving children. But other
24 things that they expanded, they intended to expand in a general
25 sense, not just involving children but just in general. And

1 that's what we're dealing with here.

2 Now, as far as counsel's argument that it is not the
3 kind of holding, seizure, or confinement contemplated by the
4 Act, I respectfully disagree with his characterization for the
5 following reasons:

6 First of all, the Defendants, when they entered that
7 store, they could have pointed the gun at the guy and said get
8 out. They didn't, because they didn't want him running and
9 going to the police. They planned in advance. It was
10 premeditated, planned and purposeful planning to zip tie those
11 individuals, confine them, put them on the floor, and restrain
12 them. That is exactly what is contemplated by this statute.

13 This is no different than the child predator going
14 into a bathroom. We've had -- when I was a state prosecutor,
15 we had an event where a child goes into the bathroom and
16 somebody corners him in the bathroom stall. They're still
17 confining, seizing, and not letting that person leave. It is
18 exactly the kind of conduct that is contemplated by the statute.

19 They did take it a step further. This is not
20 somebody that's just told at gunpoint get on the ground. They
21 zip tied them.

22 Now, you can tell from the video that they didn't zip
23 tie them very well because they were able to get up and get
24 loose fairly quickly, but the intent was they would not be able
25 to get out and that they would not be able to contact the

1 police quickly. So this is exactly what is contemplated by the
2 statute. And we respectfully submit that this should be
3 permitted to go to the jury.

4 The jury should be able to decide whether or not this
5 issue is a guilty or not guilty, and then counsel can address
6 that later. But at this point in time, we have presented
7 sufficient facts and evidence and circumstances that justify
8 it.

9 THE COURT: Okay. I'm going to let it go to the
10 jury, but I still have the same concerns I have with regard to
11 that, and I'll -- and that way, either way, regardless of what
12 happens, it will give an opportunity for the Fifth Circuit to
13 address it and maybe the United States Supreme Court to address
14 it with regard to that.

15 I certainly would think that this is a really big
16 enlargement on what kidnapping is, and we'll just have to -- I
17 will just have to think about it and look at that statute. And
18 I have heard your argument and your comparison to a bathroom
19 and that sort of thing and what that -- what that entails.

20 So, anyway, I'm going to submit it, and then we will
21 see where we are after that. And I may do something at that
22 point, and we'll have a chance to -- if there happens to be
23 convictions on those, we can address it again at that point.

24 Okay. So I'm denying your motions on all counts at
25 this point.

1 All right. How long? 15 minutes?

2 MR. ROGERS: I think 15 minutes should be sufficient,
3 Your Honor.

4 MR. LUND: Yes, sir. Mr. Rogers is doing it, Your
5 Honor.

6 THE COURT: Oh, is he? Are you, Mr. Rogers? Okay.

7 MR. ROGERS: Yes, Your Honor.

8 THE COURT: Mr. Martin, is that enough for you?

9 MR. MARTIN: Yes, Your Honor.

10 THE COURT: Who's doing it? Who's doing it? Both of
11 y'all or --

12 MR. DE LA GARZA: Yes, you Honor.

13 Your Honor, I will open, and Mr. Junker will do
14 rebuttal.

15 THE COURT: Okay. And you think that's enough for
16 y'all?

17 MR. JUNKER: Yes, absolutely.

18 THE COURT: Okay. All right. Now, charge. Y'all
19 can sit down.

20 Have y'all had enough chance to look at the charge
21 and everything and what you've got and where we are?

22 I know y'all wanted me to do something the way it had
23 been done in another court on that brandishing or using. I'm
24 going to leave it the way that it is. I get your point.

25 And I did one change in how I submit the using part.

1 Instead of saying "yes or no," I put "guilty or not guilty,"
2 which I think is a better way to put it. But I don't -- was
3 there anything else that y'all had?

4 MR. JUNKER: Minor stuff that's already been
5 corrected, Your Honor. The Government is satisfied with the
6 present -- we'll have to read through it, obviously, to see if
7 there's been any --

8 THE COURT: I didn't make any other changes, I don't
9 think.

10 Have y'all looked at it from last night?

11 MR. JUNKER: I looked at it last night, but since
12 then, no, I have not had a chance to look at it.

13 THE COURT: Oh, I haven't made any -- we haven't
14 made -- other than what I -- I don't think there's any other
15 changes other than that that we made.

16 How about you, Mr. Lund?

17 MR. LUND: Your Honor, I have an objection for record
18 purposes related to our own requested jury instructions;
19 however, I'm not sure if the Court wants to take that up at
20 this time or the Court would rather wait till the evidence is
21 closed in this matter.

22 THE COURT: Oh, I'm assuming the evidence is closed,
23 but you're right, it isn't.

24 So y'all -- let's go through that right now, and then
25 you can make that, all right?

1 MR. LUND: Your Honor, may I approach?

2 THE COURT: Yes.

3 (Pause)

4 THE COURT: All right. Call your -- are you going to
5 have any witnesses that we need to call or not? I don't want
6 to go over the charge yet.

7 MR. LUND: Then I apologize, Your Honor. I
8 misunderstood your comment. I thought you wanted me to go over
9 the charge.

10 THE COURT: My fault. My fault. No, that was my
11 fault.

12 All right. Y'all want me to bring the jury out and
13 then call witnesses, or where are we at this point?

14 MR. LUND: Your Honor, I'm under the impression that
15 Mr. Martin is actually going first with his case-in-chief.

16 THE COURT: Okay.

17 MR. LUND: I'm not sure if that's correct or not.

18 THE COURT: Mr. Martin, is that right?

19 MR. MARTIN: No, Your Honor. We're going to close.

20 THE COURT: Okay.

21 MR. LUND: Oh, we're going to close as well.

22 THE COURT: Okay.

23 MR. MARTIN: And that was a change in position.

24 THE COURT: Okay. So both sides close.

25 Do you have any admonitions for the Defendants that

1 y'all would like to put on the record or anything about if they
2 want to testify or not testify? That's up to y'all. I'm not
3 demanding anything.

4 MR. MARTIN: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. MARTIN: My admonition would be in the presence
7 of my client, Treveon Anderson, that we have discussed in great
8 detail his right, of course, to testify in his own behalf or
9 his right not to testify in his own behalf. And he has
10 informed me that he feels that he does not want to testify, and
11 that is what he has told me.

12 THE COURT: Is that right, Mr. Anderson?

13 DEFENDANT ANDERSON: Yes, sir.

14 THE COURT: Okay. Mr. Lund?

15 MR. LUND: Your Honor, I won't take up too much of
16 the Court's time. Our admissions to Mr. Hatchett have been
17 very similar. We've had numerous conversations with him,
18 including one over lunch yesterday. And Mr. Hatchett has
19 consistently indicated to us that he does not want to testify
20 for various reasons. I say that in the presence of my client.

21 THE COURT: Is that true, Mr. Hatchett?

22 DEFENDANT HATCHETT: Yes, sir, it is.

23 THE COURT: Okay.

24 MR. LUND: Thank you, Your Honor.

25 THE COURT: All right. Anything else?

1 And I just want to put this on the record.

2 Mr. Anderson, do you have any complaints about the
3 quality of the representation since you've got a
4 court-appointed lawyer?

5 DEFENDANT ANDERSON: No, sir.

6 THE COURT: Okay. How about you, Mr. Hatchett?

7 DEFENDANT HATCHETT: No, sir, I have no complaints.

8 THE COURT: You what?

9 DEFENDANT HATCHETT: I said no, sir, I have no
10 complaints.

11 THE COURT: Okay. All right.

12 okay. Y'all need a little break before we bring them
13 in and get your act together on making a final argument?

14 MR. JUNKER: That would be nice, if the Court please.

15 MS. HILL: Yes, sir.

16 MR. MARTIN: It would be very nice.

17 THE COURT: Okay. Off the record.

18 (Discussion off the record)

19 THE COURT: Here we go.

20 MR. LUND: Your Honor, first, with regards to the
21 change in -- Your Honor, first, with regards to the change in
22 the verdict form, I would request that the original verdict in
23 the verdict form be used as to Count Three as opposed to the
24 modified version that was just handed to me moments ago.

25 The original version stated, "Count Three:

1 Brandishing a firearm during and in relation to a crime of
2 violence, 18 U.S.C. 924(c)(1)(A)(ii) and 2." There is a
3 selection of "guilty" or "not guilty" of the offense charge.
4 "If your answer to Count Three is 'not guilty,' do you find
5 that the Defendant used or carried or aided and abetted another
6 person in using or carrying a firearm during the commission of
7 the offense? Yes or no?"

8 That's my first objection.

9 THE COURT: And I changed "yes or no" to "guilty or
10 not guilty." And "guilty" goes to where "yes" is, and "not
11 guilty" goes to where "no" is.

12 And you object to that, correct?

13 MR. LUND: Yes, Your Honor.

14 THE COURT: Okay. I overrule that. Okay.

15 MR. LUND: In addition to that, Judge, previously
16 filed were Defendant Hatchett's requested jury instructions.
17 That's Document 513 filed on October 9, 2018.

18 There are a number of instructions within that that
19 the Court has refused to adopt in its jury charge, so I would
20 generally object to the failure to adopt those jury
21 instructions.

22 THE COURT: Yes. And I reviewed all of those and
23 chose not to adopt, so I overrule those, and I overrule your
24 objection. Okay.

25 MR. LUND: I understand, Your Honor.

1 THE COURT: And deny those requests.

2 MR. LUND: I understand.

3 THE COURT: Anything else?

4 MR. LUND: No, Your Honor.

5 THE COURT: Okay. But does that satisfy -- I think
6 that gets your record cleared up?

7 MR. LUND: I believe so, Judge. Thank you.

8 THE COURT: I think so, too.

9 Anything you want to make on the record?

10 MR. JUNKER: No, Your Honor.

11 THE COURT: All right. Okay. Y'all go take a break.

12 (Recess from 9:51 to 10:22)

13 THE COURT: Okay. Are we ready to bring them in?

14 MS. HILL: Yes, Your Honor.

15 MR. JUNKER: The Government is ready, Your Honor.

16 MS. HILL: We're ready, Your Honor.

17 THE COURT: Okay. Anybody need warnings, or are
18 y'all going to keep up with your own time?

19 MR. ROGERS: Your Honor, I would ask the Court for a
20 two-minute warning.

21 THE COURT: Okay.

22 MR. DE LA GARZA: Your Honor, could I have a warning
23 at 9 minutes of the 15 minutes, please?

24 THE COURT: Okay.

25 MR. JUNKER: And may I have a one-minute warning,

1 Your Honor?

2 THE COURT: You want a one --

3 MR. JUNKER: One minute, Your Honor. Thank you very
4 much.

5 THE COURT: You bet.

6 Yes?

7 MR. MARTIN: Judge, one minute.

8 THE COURT: Okay.

9 MR. MARTIN: Judge, one minute warning for me.

10 THE COURT: Okay. I think I've got all that
11 straight.

12 All right. I don't think there's anything else we
13 need to do.

14 You did your Rule 29 outside the presence of the
15 jury, and I don't think you need to repeat it for purposes of
16 the record unless you just want to say that.

17 MR. LUND: Your Honor -- Your Honor, I would agree
18 with the Court; however, simply for record purposes, to protect
19 everything --

20 THE COURT: At the end, since both sides rest and
21 close, you just want to say, "I repeat my motion" or something
22 like that?

23 MR. LUND: Yes, Your Honor.

24 THE COURT: And I will interpret that as being a
25 Rule 29. You can say the word "Rule 29." whatever record you

1 need to make. I'm not trying to prevent you from doing that.

2 I just want to make sure y'all are clear about that, okay?

3 MR. LUND: I appreciate that. Thank you, Judge.

4 THE COURT: You bet.

5 And you, too, Mr. Martin.

6 MR. MARTIN: Thank you, Your Honor.

7 THE COURT: Okay. All right.

8 SECURITY OFFICER: All rise for the jury.

9 (Jury in)

10 THE COURT: Y'all be seated.

11 All right. Okay. Mr. Martin?

12 MR. MARTIN: No evidence.

13 THE COURT: Witnesses? We haven't closed or anything
14 in front of the jury. Do you have any witnesses?

15 MR. MARTIN: I'm sorry, Judge. I understand. We
16 close.

17 (Defendant Anderson rests and closes)

18 MR. ROGERS: Your Honor, Mr. Hatchett rests and
19 close.

20 (Defendant Hatchett rests and closes)

21 THE COURT: And close.

22 The Government?

23 MR. JUNKER: The Government rests and close.

24 (Government rests and closes)

25 THE COURT: Okay. And so, ladies and gentlemen,

1 you've heard all the testimony you're going to hear.

2 MR. LUND: Your Honor?

3 THE COURT: Just a moment. There's -- I need to let
4 them put something in the record. Just a second.

5 Go ahead, Mr. Lund.

6 MR. LUND: Your Honor, I renew my Rule 29 motion.

7 THE COURT: All right. The same ruling as before.
8 Mr. Martin?

9 MR. MARTIN: We renew ours also, Your Honor.

10 THE COURT: All right. The same ruling as before.

11 Okay. You've heard all the evidence you're going to
12 hear. I think it's already turned to the page that you need to
13 be on. That means we've got a second Number 1, but that's
14 okay.

15 If you'll see where it says "Post-Evidence
16 Instructions," that's where we're going to start reading.

17 Let me explain something to you. I'm going to read
18 this really fast, not because it's not important. It is
19 important. I am required to read it. It's as if the powers
20 that be, the judges above me that sit in the Fifth Circuit and
21 sit in the United States Supreme Court, think that y'all can't
22 read or some judges don't give this to you to read. And that's
23 true. But -- so don't think just because I'm reading it
24 quickly doesn't mean that it's not important. It is important.
25 You can read it faster than I can. I don't care how fast I

1 read.

2 So don't be alarmed when you hear me read. It's not
3 that I don't think it's important, it's that I think you can
4 read for yourself. And I've been a judge long enough that if
5 that irks judges above me, so be it. Okay?

6 So here we go.

7 "Members of the jury, in any jury trial there are in
8 effect two judges. I am one of the judges; the other is you,
9 the jury. It is my duty to preside over the trial and to
10 decide what evidence is proper for your consideration. It is
11 also my duty at the end of the trial to explain to you the
12 rules of law that you must follow and apply in arriving at your
13 verdict.

14 "First, I will give you some general instructions
15 which apply in every case, for example, instructions about
16 burden of proof and how to judge the believability of
17 witnesses. Then I will give you some specific rules of law
18 about this particular case, and finally I will explain to you
19 the procedures you should follow in your deliberations.

20 "Number 1. Jury's Role.

21 "You, as jurors, are the judges of the facts, but in
22 determining what actually happened -- that is, in reaching your
23 decision as to the facts -- it is your sworn duty to follow all
24 the rules of law as I explain them to you.

25 "You have no right to disregard or give special

1 attention to any one instruction, or to question the wisdom or
2 correctness of any rule I may state to you. You must not
3 substitute or follow your own notion or opinion as to what the
4 law is or ought to be. It is your duty to apply the law as I
5 explain it to you, regardless of the consequences.

6 "It is also your duty to base your verdict solely
7 upon the testimony and the evidence, without prejudice or
8 sympathy. That was the promise you made and the oath you took
9 before being accepted by the parties as jurors, and they have
10 the right to expect nothing less.

11 "Number 2. Burden of Proof.

12 "The indictment or formal charge against the
13 Defendants is not evidence of guilt. Indeed, the Defendants
14 are presumed by law to be innocent. The Defendants begin with
15 a clean slate. The law does not require the Defendants to
16 prove their innocence or produce any evidence at all.

17 "The Government has the burden of proving the
18 Defendants guilty beyond a reasonable doubt, and if it fails to
19 do so, you must acquit the Defendants. While the Government's
20 burden of proof is a strict or heavy burden, it is not
21 necessary that the Defendants' guilt be proved beyond all
22 possible doubt. It is only required that the Government's
23 proof exclude any 'reasonable doubt' concerning the Defendants'
24 guilt.

25 "A 'reasonable doubt' is a doubt based upon reason

1 and common sense after careful and impartial consideration of
2 all the evidence in the case. Proof beyond a reasonable doubt,
3 therefore, is proof of such a convincing character that you
4 would be willing to rely and act upon it without hesitation in
5 making the most important decisions of your own affairs.

6 "Number 3. The Evidence.

7 "As I told you earlier, it is your duty to determine
8 the facts. In doing so, you must consider only the evidence
9 presented during the trial. Evidence is the sworn testimony of
10 the witnesses, including stipulations, and the exhibits. The
11 questions, statements, objections, and arguments made by the
12 lawyers are not evidence.

13 "The function of the lawyers is to point out those
14 things that are most significant or most helpful to their side
15 of the case, and in doing so to draw your attention to certain
16 facts or inferences that might otherwise escape your notice.
17 In the final analysis, however, it is your own recollection and
18 interpretation of the evidence that controls in the case. What
19 the lawyers say is not binding upon you.

20 "During the trial I sustained objections to certain
21 questions. You must disregard those questions entirely. Do
22 not speculate as to what the witness would have said if
23 permitted to answer the question. Your verdict must be based
24 solely on the legally admissible evidence and testimony.

25 "Also, do not assume from anything I may have done or

1 said during the trial that I have any opinion concerning any of
2 the issues in this case. Except for the instructions to you on
3 the law, you should disregard anything I may have said during
4 the trial in arriving at your own verdict.

5 "In considering the evidence, you are permitted to
6 draw such reasonable inferences from the testimony and exhibits
7 as you feel are justified in light of your common experience.
8 In other words, you may make deductions and reach conclusions
9 that reason and common sense lead you to draw from the facts
10 which have been established by the evidence.

11 "Do not be concerned about whether evidence is
12 'direct evidence' or 'circumstantial evidence.' You should
13 consider and weigh all the evidence that was presented to you.

14 "'Direct evidence' is the testimony of one who
15 asserts actual knowledge of a fact, such as an eyewitness.
16 'Circumstantial evidence' is proof of a chain of events and
17 circumstances indicating that something is or is not a fact.

18 "The law makes no distinction between the weight you
19 may give to either direct or circumstantial evidence. But the
20 law requires that you, after weighing all of the evidence,
21 whether direct or circumstantial, be convinced of the guilt of
22 the Defendant beyond a reasonable doubt before you can find him
23 guilty.

24 "4. Credibility, Impeachment, weight of the
25 Evidence.

1 "I remind you that it is your job to decide whether
2 the Government has proved the guilt of the Defendants beyond a
3 reasonable doubt. In doing so, you must consider all of the
4 evidence. This does not mean, however, that you must accept
5 all of the evidence as true or accurate.

6 "You are the sole judges of the credibility or
7 'believability' of each witness and the weight to be given to
8 the witness's testimony. An important part of your job will be
9 making judgments about the testimony of the witnesses who
10 testified in this case. You should decide whether you believe
11 all, some part, or none of what each person had to say, and how
12 important that testimony was. In making that decision I
13 suggest that you ask yourself a few questions: Did the witness
14 impress you as honest? Did the witness have any particular
15 reason not to tell truth? Did the witness have a personal
16 interest in the outcome of the case? Did the witness have any
17 relationship with either the Government or the defense? Did
18 the witness seem to have a good memory? Did the witness
19 clearly see or hear the things about which he or she testified?
20 Did the witness have the opportunity and ability to understand
21 the questions clearly and answer them directly? Did the
22 witness's testimony differ from the testimony of other
23 witnesses? These are a few of the considerations that will
24 help you determine the accuracy of what each witness said.

25 "Your job is to think about the testimony of each

1 witness you have heard and decide how much you believe of what
2 each witness had to say. In making up your mind and reaching a
3 verdict, do not make any decisions simply because there were
4 more witnesses on one side than on the other. Do not reach a
5 conclusion on a particular point just because there were more
6 witnesses testifying for one side on that point. You will
7 always bear in mind that the law never imposes upon a defendant
8 in a criminal case the burden or duty of calling any witnesses
9 or producing any evidence.

10 "In this case the Government called as one of its
11 witnesses an alleged accomplice, named as a co-defendant in the
12 indictment, with whom the Government has entered into a plea
13 agreement." It actually had two. "The agreement provides for
14 dismissal of certain counts as to the co-defendants and the
15 nonbinding recommendation for a reduced maximum punishment.
16 Such plea bargaining, as it is called, has been approved as
17 lawful and proper, and is expressly provided for in the rules
18 of this Court.

19 "An alleged accomplice, including one who has entered
20 into a plea agreement with the Government, is not prohibited
21 from testifying. On the contrary, the testimony of such a
22 witness may alone be of sufficient weight to sustain a verdict
23 of guilty. You should keep in mind that such testimony is
24 always to be received with caution and weighed with great care.
25 You should never convict a defendant upon the unsupported

1 testimony of an alleged accomplice unless you believe that
2 testimony beyond a reasonable doubt.

3 "The fact that an accomplice has entered a plea of
4 guilty to the offense charged is not evidence of the guilt of
5 any other person.

6 "The testimony of a witness may be discredited by
7 showing that the witness testified falsely, or by evidence that
8 at some other time the witness said or did something, or failed
9 to say or do something, which is inconsistent with the
10 testimony the witness gave at this trial.

11 "Earlier statements of a witness were not admitted in
12 evidence to prove that the contents of those statements are
13 true. You may not consider the earlier statements to prove
14 that the content of an earlier statement is true; you may only
15 use earlier statements to determine whether you think the
16 earlier statements are consistent or inconsistent with the
17 trial testimony of the witness and therefore whether they
18 affect the credibility of that witness.

19 "If you believe that a witness has been discredited
20 in this manner, it is your exclusive right to give the
21 testimony of that witness whatever weight you think it
22 deserves.

23 "Certain charts and summaries have been shown to you
24 solely as an aid to help explain the facts disclosed by
25 evidence (testimony, books, records, and other documents) in

1 the case. These charts and summaries are not admitted into
2 evidence or proof of any facts. You should determine the facts
3 from the evidence that is admitted.

4 "Other charts and summaries have been received into
5 evidence. You should give them only such weight as you think
6 they deserve.

7 "5. The Fifth Superseding Indictment.

8 "You will note that the Fifth Superseding Indictment
9 charges that the alleged offenses were committed on or about a
10 specific date -- specified date. The Government does not have
11 to prove that the crime was committed on that exact date, so
12 long as the Government proves beyond a reasonable doubt that
13 the Defendants committed the crime on a date reasonably near
14 November 17, 2013, the date stated in the Fifth Superseding
15 Indictment.

16 "A separate crime is charged against one or more of
17 the Defendants in each count of the Fifth Superseding
18 Indictment. Each count, and the evidence pertaining to it,
19 should be considered separately. The case of each defendant
20 should be considered separately and individually. The fact
21 that you may find one or more of the accused guilty or not
22 guilty of any of the crimes charged should not control your
23 verdict as to any other crime or any other defendant. You must
24 give separate consideration to the evidence as to each count
25 and as to each defendant.

1 "6. Consider Only Crimes Charged.

2 "You are here to decide whether the Government has
3 proved beyond a reasonable doubt that the Defendants are guilty
4 of the crimes charged. The Defendants are not on trial for any
5 act, conduct, or offense not alleged in the Fifth Superseding
6 Indictment. Neither are you called upon to return a verdict as
7 to the guilt of any other person or persons not on trial as a
8 defendant in this case, except as you are otherwise instructed.

9 "8. Expert Opinion Testimony.

10 "During the trial, you heard the testimony of
11 individuals who purport to be experts in their fields --
12 respective fields. This includes the testimony of the
13 following witnesses -- witness: Mark Sedwick, who expressed
14 opinions on cell tower information for cellular telephones. If
15 scientific, technical, or other specialized knowledge might
16 assist the jury in understanding the evidence or in determining
17 a fact in issue, a witness qualified by knowledge, skill,
18 experience, training, or education may testify and state an
19 opinion concerning such matters.

20 "Merely because such a witness has expressed an
21 opinion does not mean, however, that you must accept this
22 opinion. You should judge such testimony like any other
23 testimony. You may accept it or reject it and give it as much
24 weight as you think it deserves, considering the witness's
25 education and experience, the soundness of the reasons given

1 for the opinion, and all other evidence in the case.

2 "9. Punishment Not Your Concern.

3 "If the Defendants -- either Defendant is found
4 guilty, it will be my duty to decide what the punishment will
5 be. You should not be concerned with the punishment in any
6 way. It should not enter your consideration or discussion.

7 "10. General Definitions.

8 "The word 'knowingly,' as that term has been used
9 from time to time in these instructions, means that the act was
10 done voluntarily and intentionally, not because of mistake or
11 accident.

12 "Interstate commerce means commerce or travel between
13 one state, territory or possession of the United States and
14 another state, territory or possession of the United States,
15 including the District of Columbia.

16 "Foreign commerce means commerce or travel between
17 any part of the United States, including its territorial
18 waters, and any other country, including its territorial
19 waters.

20 "The term 'commerce' means all commerce between any
21 point in a state and any point outside thereof, all commerce
22 between points within the same state through any place outside
23 such state, and all other commerce over which the United States
24 has jurisdiction.

25 "Commerce includes travel, trade, transportation and

1 communication.

2 "Count One -- Conspiracy to Interfere with Commerce
3 by Robbery.

4 "18 United States Code, Section 1951(a).

5 "Count One of the Fifth Superseding Indictment
6 charges the Defendants Treveon Dominique Anderson and Jimmy
7 Hatchett with conspiracy to interfere with commerce by robbery
8 in violation of Title 18, United States Code, Section 1951(a).
9 The object or purpose of the conspiracy charged in Count One is
10 robbery, as charged in Count Two.

11 "A 'conspiracy' is an agreement between two or more
12 persons to join together to accomplish some unlawful purpose.
13 It is a kind of 'partnership in crime' in which each member
14 becomes the agent of every other member.

15 "For you to find the Defendant guilty of this crime,
16 you must be convinced that the Government has proved each of
17 the following beyond a reasonable doubt:

18 "First: That the Defendant had at least one other
19 person -- and at least one other person made an agreement to
20 commit the crime of interference with commerce by robbery, as
21 charged in the indictment;

22 "Second: That the Defendant knew the unlawful
23 purpose of the agreement and joined in it willfully, that is,
24 with the intent to further the unlawful purpose; and

25 "Third: That one of the conspirators during the

1 existence of the conspiracy knowingly committed at least one of
2 the overt acts described in the indictment, in order to
3 accomplish some object or purpose of the conspiracy.

4 "One may become a member of a conspiracy without
5 knowing all the details of the unlawful scheme or the
6 identities of all the other alleged conspirators. If a
7 defendant understands the unlawful nature of a plan or scheme
8 and knowingly and intentionally joins in that plan or scheme on
9 one occasion, that is sufficient to convict him for conspiracy
10 even though the Defendant had not participated before and even
11 though the Defendant played only a minor role [sic].

12 "The Government need not prove that the alleged
13 conspirators entered into any formal agreement, nor that they
14 directly stated between themselves all the details of the
15 scheme. Similarly, the Government need not prove that all of
16 the details of the scheme alleged in the indictment were
17 actually agreed upon or carried out. Nor must it prove that
18 all of the persons alleged to have been members of the
19 conspiracy were such, or that the alleged conspirators actually
20 succeeded in accomplishing their unlawful objectives.

21 "Mere presence at the scene of an event, even with
22 knowledge that a crime is being committed, or the mere fact
23 that certain persons may have associated with each other, and
24 may have assembled together and discussed common aims and
25 interests, does not necessarily establish proof of the

1 existence of a conspiracy. Also, a person who has no knowledge
2 of a conspiracy, but who happens to act in a way which advances
3 some purpose of a conspiracy, does not thereby become a
4 conspirator.

5 "Count Two -- Interference with Commerce by Robbery.

6 "18 United States Code, Section 1951(a).

7 "Count Two of the Fifth Superseding Indictment
8 charges the Defendants Treveon Dominique Anderson and Jimmy
9 Hatchett with violating Title 18, United States Code, Section
10 1951(a), which makes it a crime for anyone to obstruct, delay,
11 or affect commerce by robbery. The term 'robbery' means the
12 unlawful taking or obtaining of personal property from the
13 person or in the presence of another, against that person's
14 will, by means of actual or threatened force, or violence, or
15 fear of injury, immediate or future, to that person or
16 property.

17 "If -- for you to find Mr. Anderson and Mr. Hatchett
18 guilty of this crime, you must be convinced that the Government
19 has proved each of the following beyond a reasonable doubt:

20 "First: That the Defendant unlawfully took or
21 obtained personal property from the person or in the presence
22 of another, against that person's will;

23 "Second: That the Defendant did so by means of
24 actual or threatened force, or violence, or fear of injury to
25 that person or their property; and

1 "Third: That the Defendant's conduct in any way or
2 degree obstructed, delayed, or affected commerce or the
3 movement of any article or commodity in commerce.

4 "The Government is not required to prove that the
5 Defendant knew that his conduct would obstruct, delay, or
6 affect commerce or the movement of any article or commodity in
7 commerce. It is not necessary for the Government to show that
8 the Defendant actually intended or anticipated an effect on
9 commerce by his actions. All that is necessary is that the
10 neutral -- natural, excuse me, and probable consequences of the
11 acts the Defendant took would be to affect commerce. If you
12 decide that there would be any effect at all on commerce, then
13 that is enough to satisfy this element.

14 "The term 'property' includes money and other
15 tangible and intangible things of value.

16 "The term 'fear' includes fear of economic loss or
17 damage, as well as fear of physical harm.

18 "It is not necessary that the Government prove that
19 the fear was a consequence of a direct threat; it is sufficient
20 for the Government to show that the victim's fear was
21 reasonable under the circumstances.

22 "Count Three -- Using, Carrying, or Brandishing a
23 Firearm During and in Relation to a Crime of Violence.

24 "18 U.S.C., Section 924(c)(1)(A)(ii).

25 "Count Three of the Fifth Superseding Indictment

1 charges the Defendants Treveon Dominique Anderson and Jimmy
2 Hatchett with violating Title 18, United States Code, Section
3 924(c)(1)(A)(ii), which makes it a crime for anyone to
4 knowingly use, carry, or brandish a firearm during and in
5 relation to a crime of violence.

6 "For you to find Mr. Anderson and/or Mr. Hatchett
7 guilty of this crime you must be convinced that the Government
8 has proven each of the following beyond a reasonable doubt:

9 First: That the Defendant committed the crime
10 alleged in Count Two of the indictment. I instruct you that
11 Interference with Commerce by Robbery is a crime of violence;
12 and

13 "Second: That the Defendant knowingly used, carried,
14 or brandished a firearm during and in relation to the
15 Defendant's commission of the crime charged in Count Two of the
16 indictment.

17 "To prove the Defendant 'used' a firearm during and
18 in relation to a crime of violence, the Government must prove
19 the Defendant actively employed the firearm in the commission
20 of Count Two, such as a use that is intended to or brings about
21 a change in the circumstances of the commission of Count Two.
22 'Active employment' may include brandishing, displaying,
23 referring to, battering -- bartering, excuse me -- bartering,
24 striking with, firing, or attempting to fire the firearm.
25 'Use' is more than mere possession of a firearm or having it

1 available during the crime of violence.

2 "To prove the Defendant 'carried' a firearm during
3 and in relation to a crime of violence, the Government must
4 prove that the Defendant carried the firearm in the ordinary
5 meaning of the word 'carry,' such as by transporting a firearm
6 on the person or in a vehicle. The Defendant's carrying of the
7 firearm cannot be merely coincidental or unrelated to the crime
8 of violence.

9 "To prove the Defendant 'brandished' a firearm, the
10 Government must prove that the Defendant displayed all or part
11 of the firearm, or otherwise made the presence of the firearm
12 known to another person, in order to intimidate that person,
13 regardless of whether the firearm was directly visible to that
14 person.

15 "'In relation to' means that the firearm must have
16 some purpose, role, or effect with respect to the crime of
17 violence.

18 "Count Four -- Kidnapping.

19 "18 United States Code, Section 1201(a)(1).

20 "Count Four of the Fifth Superseding Indictment
21 charges the Defendants Treveon Dominique Anderson and Jimmy
22 Hatchett with violating Title 18, United States Code, Section
23 1201(a)(1), which makes it a crime for anyone to unlawfully
24 kidnap another person in or affecting interstate or foreign
25 commerce for some purpose or benefit.

1 "For you to find Mr. Anderson and/or Mr. Hatchett
2 guilty of this crime, you must be convinced that the Government
3 has proved each of the following beyond a reasonable doubt:

4 First: That the Defendant, knowingly acting contrary
5 to law, kidnapped, seized, or confined A.S., the initials of
6 the person, A.S. as charged;

7 "Second: That the Defendant held the person for some
8 purpose or benefit; and

9 "Third: That the Defendant used a facility or
10 instrumentality of interstate commerce in furtherance of the
11 commission of the kidnapping. I instruct you that cellular
12 telephones and motor vehicles are facilities and/or
13 instrumentalities of interstate commerce.

14 "To 'kidnap' a person means to unlawfully hold, keep,
15 detain, or confine the person against that person's will.
16 Involuntariness or coercion in connection with the victim's
17 detention is an essential part of the offense.

18 "You need not unanimously agree on why the Defendant
19 kidnapped the person in question, so long as you each find that
20 he had some purpose or derived some benefit from the
21 kidnapping.

22 "The Government need not prove the Defendant knew he
23 was using a facility or instrumentality of interstate commerce
24 in furtherance of the commission of the kidnapping, only that
25 he did.

1 "Count Five -- Kidnapping.

2 18 United States Code, Section 1201(a)(1).

3 "Count Five of the Fifth Superseding Indictment
4 charges the Defendants Treveon Dominique Anderson and Jimmy
5 Hatchett with violating Title 18, United States Code, Section
6 1201(a)(1), which makes it a crime for anyone to unlawfully
7 kidnap another person in or affecting interstate or foreign
8 commerce for some purpose or benefit.

9 "For you to find Mr. Anderson and/or Mr. Hatchett
10 guilty of this crime, you must be convinced that the Government
11 has proved each of the following beyond a reasonable doubt:

12 "First: That the Defendant, knowingly acting
13 contrary to law, kidnapped, seized, or confined a person, the
14 initials V.P. as charged;

15 "Second: That the Defendant held the person for some
16 purpose or benefit; and

17 "Third: That the Defendant used a facility or
18 instrumentality of interstate commerce in furtherance of the
19 commission of the kidnapping. I instruct you that cellular
20 telephones and motor vehicles are facilities and/or
21 instrumentalities of interstate commerce.

22 "To 'kidnap' a person means to unlawfully hold, keep,
23 detain, or confine the person against that person's will.
24 Involuntariness or coercion in connection with the victim's
25 detention is an essential part of the offense.

1 "You need not unanimously agree on why the Defendant
2 kidnapped the person in question, so long as you each find that
3 he had some purpose or derived some benefit from the
4 kidnapping.

5 "The Government need not prove that the Defendant
6 knew he was using a facility or instrumentality of interstate
7 commerce in furtherance of the commission of the kidnapping,
8 only that he did.

9 "Unanimity of Theory.

10 "You have been instructed that your verdict, whether
11 it is guilty or not guilty, must be unanimous. The following
12 instruction applies to the unanimity requirement as to Counts
13 Four and Five.

14 "Counts Four and Five of the Fifth Superseding
15 Indictment accuse the Defendants of committing the crime of
16 kidnapping in three different ways. The first is that the
17 Defendant kidnapped A.S. and/or V.P. The second is that the
18 Defendant seized A.S. and/or V.P. The third is that the
19 Defendant confined A.S. and/or V.P.

20 "The Government does not have to prove all of these
21 for you to return a guilty verdict on this charge. Proof
22 beyond a reasonable doubt on one is enough. But in order to
23 return a guilty verdict, all of you must agree that the same
24 one has been proved. All of you must agree that the Government
25 proved beyond a reasonable doubt that the Defendant kidnapped

1 A.S. and/or V.P.; or, all of you must agree that the Government
2 proved beyond a reasonable doubt that the Defendant seized A.S.
3 and/or V.P.; or, all of you must agree that the Government
4 proved beyond a reasonable doubt that the Defendant confined
5 A.S. and/or V.P.

6 "Aiding and Abetting Instruction.

7 "With respect to Counts Two through Five of the Fifth
8 Superseding Indictment, the guilt of the Defendants may be
9 established without proof the Defendants personally -- that the
10 Defendants personally did every act constituting the offense
11 alleged. The law recognizes that, ordinarily, anything a
12 person can do for himself may also be accomplished by him
13 through the direction of another person as his or her agent, or
14 by acting in concert with, or under the direction of, another
15 person or persons in a joint effort or enterprise.

16 "If another person is acting under the direction of
17 the Defendants or if the Defendants join another person and
18 perform acts with the intent to commit a crime, then the law
19 holds that the Defendants -- holds the Defendants responsible
20 for the acts and conduct of such other persons just as though
21 the Defendants had committed the acts or engaged in such
22 conduct.

23 "Before any defendant may be held criminally
24 responsible for the acts of others, it is necessary that the
25 accused deliberately associate himself in some way with the

1 crime and participate in it with the intent to bring about the
2 crime.

3 "Of course, mere presence at the scene of a crime and
4 knowledge that a crime is being committed are not sufficient to
5 establish that a defendant either directed or aided and abetted
6 the crime unless you find beyond a reasonable doubt that the
7 Defendant was a participant and not merely a knowing spectator.

8 "In other words, you may not find any defendant
9 guilty unless you find beyond a reasonable doubt that every
10 element of the offense as defined in these instructions was
11 committed by some person or persons, and that the Defendant
12 voluntarily participated in its commission with the intent to
13 violate the law.

14 "For you to find either defendant guilty of aiding
15 and abetting an offense, you must be convinced that the
16 Government has proved each of the following beyond a reasonable
17 doubt:

18 "First: That the offense of Interference with
19 Commerce by Robbery (for Count Two), Using, Carrying, or
20 Brandishing a Firearm During and in Relation to a Crime of
21 violence (for Count Three), or Kidnapping (for Counts Four and
22 Five) was committed by some person;

23 "Second: That the Defendant associated with the
24 criminal venture;

25 "Third: That the Defendant purposefully participated

1 in the criminal venture of Interference with Commerce by
2 Robbery (for Count Two); or that the Defendant actively
3 participated in the offense of Using, Carrying, or Brandishing
4 a Firearm During and in Relation to a Crime of Violence (for
5 Count Three) with advance knowledge that a confederate would
6 use or carry a gun during the crime's commission; or that the
7 Defendant purposefully participated in the criminal venture of
8 Kidnapping (for Counts Four and Five); and

9 "Fourth: That the Defendant sought by action to make
10 that venture successful.

11 "'To associate with the criminal venture' means that
12 the Defendant shared the criminal intent of the principal.
13 This element cannot be established if the Defendant had no
14 knowledge of the principal's criminal venture.

15 "'To participate in the criminal venture' means that
16 the Defendant engaged in some affirmative conduct designed to
17 aid the venture or assist the principal of the crime.

18 "'Actively participated' means that the Defendant
19 provided aid relating to some of a crime's phases or elements.

20 "'Advance knowledge' means that the Defendant knew
21 ahead of time -- at a time when he could have walked away --
22 that his accomplice was going to use, carry, or brandish guns
23 during the commission of the crime."

24 The rest of the instructions I will read after you
25 hear the lawyers' final arguments.

1 All right. Mr. De La Garza.

2 MR. DE LA GARZA: Thank you.

3 (Pause)

4 MR. DE LA GARZA: May I proceed, Your Honor?

5 THE COURT: Yes.

6 MR. DE LA GARZA: Counsel, counsel.

7 CLOSING STATEMENT

8 BY MR. DE LA GARZA:

9 we've had four gunmen in this court. We've had four
10 kidnappers in this court. We've had four conspirators in this
11 court. And you're looking at two of those four.

12 I think the evidence after the two days of trial has
13 convinced you that Mr. Anderson and Mr. Hatchett are guilty of
14 the five crimes they've been accused of.

15 I want to thank you in advance for all the work
16 you're going to put in in your deliberations. Please take all
17 the time that you need to go through this evidence. Go through
18 all the exhibits. Go through the phone records. Watch the
19 videos. Look at the still shots. Take your time. Don't rush
20 this. It's an important decision both for the Defendants and
21 for the Government.

22 You've heard the facts. You've heard the testimony.
23 You've heard testimony of the people that are involved on
24 Government's Exhibit 20: Mr. Jackson, Mr. Caldwell,
25 Mr. Pearson, Mr. Flanagan, Mr. Solomon, Mr. Aitch,

1 Mr. Thompson, Mr. Turner, Mr. Anderson, Mr. Cornelious,
2 Mr. Rashad, Ms. Scott, Mr. Hatchett, and Mr. Polk.

3 Some of these people were the gunmen in this robbery.
4 Some of these people were lookouts. Ms. Scott drove up to pick
5 up the jewelry. Some of these people are older men. Some of
6 these people are younger men.

7 You heard testimony about the youngsters and older
8 men. Most of the older men were the lookouts. Most of the
9 younger men were the inside men with one exception, Jimmy
10 Hatchett. He was one of the older men.

11 When you watch that video that's Government's
12 Exhibit 2, look at the difference in how the six younger men
13 move versus Mr. Hatchett. That's an older man on that video.
14 And I don't say that with any offense to any older people on
15 the jury, but that's an older man. He moves very differently
16 than the six younger men do.

17 You also see in that video glasses. There's a glint
18 of a silver piece on those glasses. And you've heard evidence
19 and seen evidence that Mr. Hatchett was wearing glasses that
20 day and wears glasses.

21 You also heard from Mr. Soni, the victim of this
22 robbery.

23 And this robbery is not in dispute. How do we know
24 it's not in dispute? Because it was captured on video,
25 Government's Exhibit Number 2. Please take that back with you

1 and watch it. Watch all the angles.

2 Mr. Soni told you that he was, on November 17th, in
3 his store; the men burst in there; they stole over \$500,000.00
4 in gold from him. He did not consent to this. This is not
5 something he wished upon himself. This is not something anyone
6 will wish upon themselves.

7 He told you his business dealt in foreign-bought
8 gold, interstate commerce. He told you that he was forced on
9 the ground and bound with zip ties, that he was confined, he
10 was kidnapped.

11 Now, the Defendant who bound him, Treveon Anderson,
12 didn't do a very good job of binding Mr. Soni. Mr. Soni got
13 out of the zip ties. Mr. Patel took a little time. But that
14 doesn't mean they weren't confined. They were confined at
15 gunpoint, guns pointed inches from them. And watch that video.
16 Those guns are inches from their backs when they're being
17 forced on the ground and being zip tied.

18 Why did they zip tie? They zip tied because Mr. Soni
19 and Mr. Patel wouldn't put up a struggle, wouldn't run out of
20 the store and wave down police.

21 Now, fortunately for Mr. Soni and Mr. Patel and all
22 the employees in that store, the panic button had already been
23 pushed, but that doesn't change the fact they still were
24 kidnapped, Mr. Soni and Mr. Patel.

25 You also heard from Special Agent Jason Ibrahim about

1 the thorough investigation that he did, a four-year
2 investigation that ultimately located Mr. Anderson and
3 Mr. Hatchett.

4 You heard from Officer Barnes who brought you some of
5 the nuts and bolts of what the local agency working eventually
6 with the FBI did. You saw some of the evidence. He showed you
7 the vans. He showed you the blood evidence that was used in
8 the investigation. He showed you the bag. There's a bag
9 that's been put into evidence you can see that matches the bags
10 that were used in the video.

11 Then we heard from two gunmen, two kidnappers, two
12 conspirators, the men that Mr. Anderson and Mr. Hatchett threw
13 in with. Remember, they drove for over 12 hours. The whole
14 robbery spanned more than 12 hours, but they drove up and back
15 from Houston to Dallas with these men, all 13 of them. This is
16 the guys they threw in with, okay? This is the guys that they
17 agreed to do this robbery with.

18 These men are criminals. And when I say criminals, I
19 don't think you can use another word to better describe
20 Mr. Turner and Mr. Aitch. Those men are criminals, undisputed.
21 But those are the men that Mr. Hatchett and Mr. Anderson
22 associated with.

23 And who better? Are you going to pick choirboys,
24 priests, ministers to do a robbery with? No. You're going to
25 pick men like Mr. Aitch and Mr. Turner to do that robbery. And

1 you've heard of their criminal experience in doing it. You
2 heard all their prior -- prior convictions.

3 You get to weigh their testimony. Did it check in
4 with the facts? Did it jibe with what happened on the video?
5 Did it jibe with the phone records? Evaluate that.

6 And you get to see all the documents they signed,
7 their plea agreements, their proffer letters, their plea
8 agreement supplements. Look at those. You can see all the
9 agreements they have with the Government to testify.

10 And you heard frankly from them they want to get a
11 reduction in their sentences for coming here, okay? So
12 evaluate that. But think what they said. Did it jibe with all
13 the facts you heard from Special Agent Ibrahim, from the video,
14 from Officer Barnes? And I think it does.

15 You also heard from Special Agent Sedwick. Special
16 Agent Sedwick told you about his cell phone analysis.

17 And Treveon Anderson's cell phone spoke for him,
18 didn't it? It did. It told us where he was. He was in
19 Houston early morning 17th with Mr. Turner. That's exactly
20 what Mr. Turner said. They drove up all the way to Dallas.
21 Exactly what Mr. Turner said.

22 They did some preparation, stuff they talked about in
23 Houston, okay, buying supplies, stealing cars, you know, making
24 sure people were in the right place at the right time, getting
25 towards the store, looking for police, all the things they

1 discussed at the Gambling Shack. That's the conspiracy. They
2 planned, they plotted, they prepared for this. The robbery is
3 the execution of that conspiracy.

4 Mr. Hatchett, his cell phone records, they show he's
5 talking to Mr. Aitch and Mr. Thompson.

6 Now, if you're friends with somebody before you do a
7 robbery with them, are you going to stop calling them
8 afterwards? No. Completely consistent. You call them before;
9 you call them afterwards. They're your friends. They are the
10 guys you associate with. They're the ones you hang out with.
11 They're the ones you do a robbery with.

12 Mr. Hatchett's Facebook also speaks for himself.
13 What does he say on his posting the night before? He tells his
14 girlfriend, "I'm leaving out of town." He doesn't say, "I'm
15 leaving out of town to go to a business convention, go to a
16 family reunion, go to a Cowboy's game." He says, "I'm leaving
17 somewhere. I'll be out of my misery if I don't come back."

18 Think about what he knew he was going to be doing in
19 that robbery. He knew guns were going to be involved. He knew
20 there was danger.

21 Mr. Turner told you in his testimony, he said, "When
22 the women were around the corner, I didn't go over there,
23 because I didn't know if they had a gun."

24 There was danger involved in this robbery, horribly
25 and terribly for the victims of it, but also for the men who

1 were involved in it. They knew what they were doing. They
2 knew the risks. And Mr. Hatchett says that in the Facebook
3 posting. "I'll be out of my misery."

4 Later that evening his Facebook posting shows some
5 money. It's not, you know, \$50,000.00, \$100,000.00, but it's
6 money. Where did he get that money from?

7 THE COURT: Nine minutes.

8 MR. DE LA GARZA: I think reasonable inferences tell
9 you that money was from the robbery.

10 I want to talk about a few things in the charge here.
11 On the kidnapping, you have to be unanimous in how the
12 kidnapping -- how you find a verdict on the kidnapping.

13 The Court's instruction says -- the first allegation
14 is the Defendants kidnapped A.S. or V.P. The second is that
15 they seized them. The third is that they confined them.

16 I think the evidence shows here they definitely
17 confined them. They put zip ties on their wrists. But you
18 have to be unanimous on that when you return your verdict.

19 Regarding the carrying, using, or brandishing a
20 firearm, the definition of brandishing is the Government must
21 prove the Defendant displayed all or part of the firearm, or
22 otherwise made the presence of the firearm known to another
23 person, in order to intimidate that person, regardless of
24 whether the firearm was directly visible to that person.

25 The video shows directly they brandished those

1 firearms.

2 Ladies and gentlemen, I think after you deliberate,
3 take your time, look at the exhibits, you'll be confident in
4 returning a verdict of guilty against Mr. Anderson and
5 Mr. Hatchett.

6 Thank you.

7 THE COURT: Mr. Martin?

8 MR. MARTIN: Yes, Your Honor. May it please the
9 Court.

10 THE COURT: Yes, sir.

11 MR. MARTIN: Able counsel for the Government, most
12 able Ms. Cindy Lee, helping us with all the documents -- just
13 leave it. It's fine -- Ms. Lee, who helped us with the graphic
14 evidence and the various documents and other evidence that has
15 been crucial to this case.

16 CLOSING STATEMENT

17 BY MR. MARTIN:

18 I want y'all to know that I recognize that y'all came
19 into this courtroom three days ago as strangers to one another
20 to sit in judgment on two other strangers. I want you to know
21 that we appreciate you honoring your summons coming down here
22 to sit in essentially a form of involuntary servitude in
23 judgment of these two men. The system does not work without
24 you. Very important. And we appreciate your service.

25 I'm going to ask you to base your verdict on three

1 things, that is, particularly, and maybe first and foremost,
2 the law that Judge Kinkeade gives you in these jury
3 instructions or what we commonly call the Court's charge.

4 Base your verdict on the law the Judge gives you, the
5 evidence that has been brought to you by either side, through
6 direct examination or cross-examination of any of the
7 witnesses, and, thirdly, the logical inferences and reasonable
8 deductions that can be made from that evidence. If you do
9 that, you will have served well and no one can ask any more of
10 you.

11 It is my obligation at this time to submit to you
12 some of my thoughts and ideas pertaining to the evidence in
13 this case.

14 Crucially, in my view of the case, it's based on two
15 forms of evidence: cell phone data and accomplice testimony.

16 I'm not going to beat this to death. Y'all have
17 seen -- you've heard from good experts. You've heard
18 pertaining to the cell phones, you've seen the video, and
19 you've heard from the accomplice witnesses.

20 with respect to the cell phone data, the computer
21 evidence, both of the experts to my recollection said we can
22 place the phone at the scene, but we don't know who's using it,
23 or words essentially to that effect. And I want -- please
24 consider that when you're deliberating with respect to what
25 verdict you want to return in this case based on the evidence.

1 The other thing I found more troubling is that it's
2 based on accomplice witness testimony. And I cannot think of a
3 more powerful motive to be less than honest with the jury if
4 you're trying to get a sentence reduction to spend less time in
5 prison. I don't care whether it's a month or six years or
6 more. It is the most powerful motive I can think of to be less
7 than honest with the jury.

8 And what is interesting -- these are my words, but it
9 is also embodied in the jury instruction that Judge Kinkeade
10 has given you. This is His Honor Judge Kinkeade, and this is
11 his document.

12 You will see on page 6 it says you should keep in
13 mind that such testimony, accomplice testimony, is always to be
14 received with caution and great care.

15 It's very suspect evidence. Please analyze that,
16 talk about it among one another, but scrutinize their evidence
17 just like the Court is asking you or instructing you in these
18 jury instructions.

19 Simply put, the accomplices are just trying to sway
20 your -- sway your verdict at the cost of these two gentlemen,
21 particularly my client, Mr. Anderson.

22 The prosecution asks you to brand these men or
23 Mr. Anderson a criminal. But first they owe an obligation to
24 you, and, that is, to prove their guilt to you beyond a
25 reasonable doubt to your satisfaction, because this is not a

1 country in which you come into the courtroom, point the finger
2 of accusation, and the axe falls. To the contrary, you come
3 into this Court and get due process.

4 Judge Kinkeade has allowed due process, which just
5 means fundamental fairness. And I'm asking you to be fair to
6 this man, be fair to the law, read the law, follow the Court's
7 jury instructions. No one can ask any more of you.

8 with respect to the jury charge, the jury
9 instructions, it is more than just a bunch of words. Really
10 and truly, it's a precious document that has been based on an
11 accumulation of legal thinking, judges so forth and so on, for
12 over -- way over a hundred years. It is a document that must
13 be scrutinely -- must be followed carefully, because if not, it
14 is trouble for all of us.

15 And once again, there is a common thread that runs
16 throughout the jury instruction: presumption of innocence and
17 proof beyond a reasonable doubt.

18 when you go back to your verdict, you can say to
19 yourself, "I started this lawsuit with the understanding that
20 the Defendant is presumed to be innocent." And I can read it
21 in the Court's charge. Like I said, it's a common thread that
22 runs throughout the charge, throughout the jury instruction.
23 That -- you can also read that the burden of proof is on the
24 Government, and that never shifts throughout -- and it's
25 throughout the jury trial.

1 Really, this jury is a citizen of -- this is a group
2 of citizens from this community, and you are free and
3 authorized by charge of this Court, these jury instructions, to
4 return a verdict without fear or favor and to say to the
5 Government you owe us what the law says you owe us, and that's
6 proof beyond a reasonable doubt, because I will not act
7 without -- unless I can without hesitation.

8 All I'm asking is that you be reasonable with me.
9 That's all I've asked of any jury at any time. And being
10 reasonable with me in this case, my opinion is find this young
11 man not guilty, because the law does not establish his guilt,
12 his presence at the jewelry store, beyond a reasonable doubt.

13 Thank you very much for your attention.

14 Thank you, Judge.

15 THE COURT: Thank you, Mr. Martin.

16 Mr. Rogers?

17 MR. ROGERS: Yes, Your Honor.

18 (Pause)

19 MR. ROGERS: May it please the Court?

20 THE COURT: Yes, sir.

21 MR. ROGERS: Counsel for the Government, Mr. Martin.

22 MR. MARTIN: Thank you.

23 CLOSING STATEMENT

24 BY MR. ROGERS:

25 Ladies and gentlemen of the jury, early on the

1 morning of November 17, 2013, a group of people drove up from
2 Houston to the Metroplex in order to rob a jewelry store in
3 Irving. I told you that on Monday that it wasn't in dispute.
4 What was in dispute is that Mr. Hatchett was there. And at
5 this point the Government has not proved to you beyond a
6 reasonable doubt that Mr. Hatchett was there.

7 Three people left blood at the scene of that crime.
8 FBI agent sees this is on TV, calls the local police
9 department, says, "Hey, guys, you want some help? I work
10 robberies for the FBI."

11 And a couple months later, they get a break in the
12 case. There is a hit on the DNA from one of the blood samples.
13 That's in early 2014. And that's when AFRAYBEOM "Ray Ray"
14 Jackson was arrested, the first arrest made in this case.

15 Mr. Jackson comes in, talks to the Government. The
16 investigation continues. More arrests are made.

17 At first the other two people left blood at the scene
18 of the crime. They are arrested. They come in, investigation
19 continues, and eventually more people are arrested.

20 Eventually, we have 12 people arrested and indicted.

21 And then three and a half years after the first
22 arrest in this case, almost four years since the robbery
23 itself, Mr. Hatchett is arrested. He's not found in hiding.
24 He's not on the run, things you might expect from someone who
25 has allegedly committed a robbery with 12 other people, all of

1 whom have been arrested at this point. No. He's just living
2 his life in Houston day-to-day, out in the open.

3 You heard Agent Ibrahim testify about the scope of
4 the investigation in this case and the length of the
5 investigation in this case, the number of agencies that were
6 involved: the Irving Police Department, the Farmers Branch
7 Police Department, the Houston Police Department, task force
8 officers, at least three FBI agents, who knows how many FBI
9 analysts. We're talking about mustering the resources of the
10 federal government and a lot of resources of the state
11 government as well, and they end up arresting Mr. Hatchett.

12 what do they have to show for it? They have some
13 posts from Facebook. They have a grainy photo from the video
14 of someone who is allegedly wearing metal-frame glasses. They
15 have some cell phone records but not any location data. And
16 they have the testimony of some snitches.

17 I talked to you on Monday about the types of evidence
18 that the Government was going to produce. We talked about
19 reliable evidence. And I told you it's reliable because
20 usually it's some sort of computer-generated report or record
21 of an event that occurred, whether that is Facebook or whether
22 that's a cell phone record.

23 But I also told you that that reliable data is
24 reliable only insofar as it tells us something actually
25 happened, but five years after the fact we can take that out of

1 context and sort of make it fit what story we want. And that's
2 what happens in this case with both the Facebook records and
3 the cell phone records.

4 Agent Ibrahim showed you in his direct testimony that
5 around the three day -- the three days around the date of the
6 robbery that there were eight cell phone calls made between
7 Mr. Hatchett and two of the co-defendants. And that sounds a
8 little bit suspicious, but when you stop and back up and look
9 at a little bit of a broader picture, over the 15 days for
10 which cell phone records were subpoenaed, there were 25 calls
11 between Mr. Hatchett and Hilton Aitch, and there were even more
12 calls -- there were 31 or 32 calls between Terrence Thompson
13 and Mr. Hatchett. And now it seems a little bit less
14 suspicious that there were eight calls in three days.

15 And if you look at the even bigger raw data that
16 Agent Sedwick relied on in compiling his reports in
17 Government's Exhibit 21, which you'll get to look at, you'll
18 see that over a two-month span, in November and December of
19 2013, Mr. Thompson and Mr. Hatchett talked. Probably there are
20 more than a hundred calls between them. And there are almost
21 that many between Mr. Hatchett and Mr. Aitch. And now it
22 really doesn't seem suspicious at all, because now you're
23 talking about guys from the same neighborhood who have known
24 each other for decades. Taken out of context, it seems
25 suspicious.

1 Mr. de la Garza said you're going to keep calling
2 people that you know before and after a robbery. Of course
3 you're going to do that. Well, I hope nobody ever gets my cell
4 phone records after somebody that I know commits a crime
5 because they've been calling me before and after the crime.
6 That's just weak. That's not proof of anything.

7 And that, ladies and gentlemen, is really ignoring
8 the elephant in the room.

9 Ms. Lee, could I get Government's Exhibit 40, page
10 Number 4?

11 We have location data for most of the guys in the
12 indictment. We don't have it for Mr. Hatchett. And the only
13 answer we got in that regard was, well, it was just too long
14 ago, T-Mobile doesn't keep their records for that long, or they
15 didn't back then. T-Mobile didn't keep their records for that
16 long back then.

17 Well, look up here and you see that Xavier Ross,
18 provider T-Mobile; Hilton Aitch, provider T-Mobile; Ray Ray
19 Jackson, provider T-Mobile; Slim, Terrence Thompson, provider
20 T-Mobile. We've got location data for those guys.

21 And speaking of taken out of context, you heard Agent
22 Sedwick say this morning in his cross-examination that he
23 wasn't asked to get anything other than those three days
24 surrounding the robbery as far as cell phone data. And there
25 is no allegation of Mr. Hatchett being in contact with any of

1 the other co-defendants. But we've got four guys with location
2 data here who have T-Mobile. Mr. Hatchett has T-Mobile, no
3 location data.

4 MS. Lee, could I get Government's Exhibit 27, please?

5 I'm sorry. 27.

6 MS. LEE: Yes, sir. Would you like to have that
7 spreadsheet we looked at this morning?

8 MR. ROGERS: It's not the spreadsheet. It's actually
9 just the letter.

10 I think this is 28. This is 28.

11 (Pause)

12 MR. ROGERS: It's going to be that third document,
13 Hatchett subscriber info.

14 If you can zoom in right here.

15 Here we have -- it says date, May 30, 2015.

16 "In response to your subpoena dated March 31, 2015."
17 And these records are returned May 30, 2015. That seems pretty
18 early on in this investigation, but still we don't have cell
19 phone records -- we don't have any cell phone location data for
20 Mr. Hatchett. That's a long time.

21 And then we have taken out of context the Facebook
22 records.

23 MS. Lee, could I get Defense Exhibit 103, please?

24 (Pause)

25 MR. ROGERS: We have a bag of money with a hundred

1 dollar bill on top. So we're talking about a robbery that you
2 heard yesterday resulted in more than half a million dollars in
3 stolen jewelry that was fenced for \$240,000.00 in cash. And
4 these are the proceeds in a perfume bag from Victoria's Secret?

5 The Government says, well, this was posted the night
6 of the robbery. This must be Mr. Hatchett's proceeds.

7 Okay. And then they ask you to consider that in
8 connection with the Facebook conversation that's been
9 referenced.

10 Could I get Government's Exhibit 47, please?

11 Actually, could I go up -- I want to go up just a
12 little bit, not focus on that part right there. It's going to
13 be on the second page.

14 (Pause)

15 MR. ROGERS: Can we focus in on that top paragraph,
16 please?

17 Okay. So this is still universal time, which is six
18 hours past where we're at, so this is still at 7:00 the day
19 before the robbery.

20 "I asked you before to let me go in peace, why you
21 chose to drag me I don't know. You know what I'm going through
22 yet you hurt me still. I waited all day for you to go to this
23 room I rented and to give you your gift," the same gift that
24 the Government says he didn't give until after the robbery.

25 So they want you to look at part of this

1 conversation, saying, "I'm leaving town." And even there, you
2 have to assume a lot of things to think that means he did this
3 robbery. You have to infer that he actually left town, that he
4 actually left Houston, that he actually went to Dallas, that he
5 went to Dallas in order to commit this robbery. But they're
6 going to ignore the part where the gift [sic] says, "I had this
7 gift the day before." That's the bag of money.

8 And then there's no forensic evidence that puts
9 Mr. Hatchett there. So, instead, we have a grainy still photo
10 of somebody from the video that looks like they're wearing
11 glasses with a metal frame. And they put that up next to a
12 photo of Mr. Hatchett, another Facebook photo with no date, we
13 don't know where it was taken or by whom, but it's a photo of
14 Mr. Hatchett with glasses with metal frames.

15 Because apparently if you have glasses with metal
16 frames at some point in your life, that's the only glasses you
17 have ever had, because nobody would ever have more than one
18 pair of glasses because they don't want to wear black glasses
19 with a blue suit or they don't want to wear brown glasses with
20 a charcoal suit or maybe some days they wear their contacts
21 because their allergies aren't bothering them.

22 They've got a photo of two people wearing glasses,
23 and that's what they say puts Mr. Hatchett at the scene of the
24 crime.

25 So when I talk about reliable evidence, it's reliable

1 only insofar as that we know these things may have actually
2 happened. But taken out of context, it can sort of fit
3 whatever story you want it to fit.

4 And talking about stories, that's the other type of
5 evidence they brought, suspect evidence. And in this case,
6 boy, was it ever suspect.

7 You heard a couple of guys get up on the stand,
8 co-defendants who are here to help themselves. They say
9 they're here to tell the truth, but we know they're here to
10 help themselves. Because what do these guys know about the
11 truth?

12 You heard about their criminal convictions. You
13 heard about their tendencies over a period of multiple years
14 really, because you've got one guy with juvenile crimes, so his
15 entire life. You've got Mr. Aitch, who was convicted and
16 sentenced to 45 years in 1991. So that's going on for almost
17 30 years.

18 They have tendencies throughout their lives to put
19 themselves in front of others and try and take advantage of
20 others. But here all of a sudden they're here to tell the
21 truth.

22 They have shown repeatedly that they can't follow the
23 Government's instructions because they can't follow the law.
24 But now they've had a change of heart. "Now I can follow the
25 Government's instructions and just tell the truth. I'm just

1 hear to tell the truth. I only want to tell the truth." Come
2 on, you want your sentence reduced. You want to continue your
3 pattern of what you've always done, which is put yourself above
4 others, whatever it takes, in order to get a benefit for
5 yourself.

6 And then they say, "well, I just -- I hope maybe the
7 Judge will consider that." Come on, that's not a fringe
8 benefit; that's the reason you're here.

9 Hilton Aitch lied to you on the stand. You heard
10 Agent Ibrahim say his investigation showed that Hilton Aitch
11 was one of the ringleaders of this. And then Hilton Aitch gets
12 up and says, "Oh, Ricky Polk called me to talk about this. He
13 told me about the jewelry store, and this was his idea, and
14 he's the one who took care of the guns." Come on, Mr. Aitch.

15 And then -- that's because Ricky Polk is deceased and
16 Ricky Polk can't tell a different story.

17 And then Hilton, that's the same guy who said, "I
18 don't know if I've ever been arrested for a crime involving
19 dishonesty." And that's just minutes after he sat there and
20 told us that he had already pled guilty to this charge of
21 robbery. Robbing somebody is dishonest. You're taking
22 something that doesn't belong to you, and in this case you're
23 taking it by yourself.

24 Hilton hasn't been charged with kidnapping. He
25 hasn't been charged with lying to a federal agent. He hasn't

1 been charged with being a felon in possession of a firearm, all
2 charges, by the way, on which the statute of limitations has
3 not run. So for Hilton to come in say, "I've already been
4 sentenced. I'm not really going to get much benefit from this,
5 because I've already gotten my sentence reduction" -- come on.
6 He's got all sorts of exposure. Hilton Aitch was here to help
7 himself.

8 And then they've got Anthony Turner who told you he
9 smoked marijuana on a daily basis.

10 THE COURT: You've got a couple of minutes.

11 MR. ROGERS: How long, Judge?

12 THE COURT: A couple of minutes.

13 MR. ROGERS: Thank you, Judge.

14 Anthony Turner smoked marijuana on a daily basis.
15 That's in addition to his other drug habits, abusing
16 prescription drugs. He told you but it didn't have any
17 effect -- it didn't affect his memory and he wasn't under the
18 influence of those drugs on that night. Even though he woke up
19 that morning and smoked marijuana from the time he woke up
20 until 8:00 p.m., didn't have any effect.

21 It had an effect on his memory, because I had to
22 remind him that when he talked to the probation officer in this
23 case, he said, "Yeah, I was under the influence." But now he
24 gets on the stand and says, "Oh, no, I wasn't under the
25 influence," because he wants you to think his memory is

1 working.

2 He also gets up and says, "Yeah, I said I about 80
3 percent recognized Jimmy." And it wasn't until today that it
4 was 100 percent sure for the first time that this was actually
5 Jimmy. Of course, now that he's in court and he knows what the
6 stakes are, that's the day he's going to say it's 100 percent
7 sure he's Jimmy.

8 And then he tells you that he cuffed 14 pieces of
9 jewelry. Everybody was cuffing jewelry. Cuffed 14 pieces.
10 That's 14 times he lied and stole and cheated from guys that he
11 threw in to lie and cheat and steal with.

12 Everybody is looking out for themselves, he says.
13 well, of course, just like him and Hilton Aitch.

14 These guys met with the Government multiple times
15 during the course of this investigation, and still they
16 couldn't get their story straight.

17 You have Mr. Turner saying, "I rode up from Houston
18 with Jimmy."

19 You have Mr. Aitch saying, "I rode up with
20 Mr. Turner, but Jimmy wasn't there."

21 You have Mr. Turner saying, "Afterwards we stopped to
22 put jewelry in Ms. Polk's car" -- I'm sorry, "in Vanlisa's car.
23 We stopped to put jewelry in there. We stopped at a gas
24 station."

25 Hilton Aitch says, "No, we stopped at a whataburger."

1 You heard Mr. Turner say these guys were housed
2 together in Seagoville. It's a lot of time they've been
3 sitting there while this case is being investigated to talk
4 about their case and get their story straight.

5 After the Judge has read you -- the Judge has already
6 read us the jury charge. You're going to go back and
7 deliberate. I want you to think about those things. Think
8 about the lack of location data for the cell phone for
9 Mr. Hatchett. Think about how there's no forensic evidence.
10 Think about how that Facebook message, that photo, were taken
11 out of context and seem to contradict one another. And I want
12 you to think about the inconsistencies and the testimony from
13 two convicted felons who are here to help themselves out.

14 And then I want you to remember what I told you on
15 Monday, that the Government was going to have to change your
16 mind on this case, that Mr. Hatchett is innocent unless the
17 Government proves to you, and that proof must be beyond a
18 reasonable doubt. And the Government just didn't get there,
19 because it turns out reliable evidence is not always so
20 reliable, and the suspect evidence in this case was just as
21 suspect as I told you it would be.

22 We heard from one victim in this case, Mr. Soni. And
23 he said this was a terrorizing event. And then we've got two
24 more guys in here, two co-defendants in here who robbed
25 Mr. Soni, and they're in here to rob again. They're trying to

1 rob society of the sentences that they got when they were
2 convicted by getting credit for time that they don't deserve,
3 credit that they don't deserve. They're trying to rob
4 Mr. Hatchett of his freedom by putting him behind bars, by
5 trying to put him at the scene of that crime.

6 Don't let these men rob us. Don't let these men
7 continue to terrorize our justice system. Find Mr. Hatchett
8 not guilty.

9 THE COURT: Mr. Junker?

10 MR. JUNKER: Yes, Your Honor.

11 (Pause)

12 MR. JUNKER: May it please the Court.

13 THE COURT: Yes, sir.

14 MR. JUNKER: Respected defense counsel.

15 CLOSING STATEMENT

16 BY MR. JUNKER:

17 Members of the jury, one of the reasons I like my job
18 is because all we have to deal with is the truth, and the truth
19 is simple. The truth fits the facts. You don't have to make
20 it and squish it in there to get it to go right. You just --
21 it just works because it's exactly what happened, whereas lies
22 are the things that have to be fit together with everything to
23 make it work.

24 And the simple truth here is that those two men were
25 gunmen in this takeover-style jewelry store robbery. They

1 conspired with the other men to come up from Houston to go into
2 that store, to zip tie the owners, and take as many jewelry --
3 as much jewelry as they possibly could.

4 And they didn't just take the guns in there and carry
5 them. They stuck them in their face and threatened them with
6 the guns to get them to get down on the floor and to zip tie
7 them. And that's important when you go back there to make your
8 decision. This is not a case where they're simply carrying
9 guns, using guns; they're actually sticking them in their face.
10 And you'll see that on the verdict form.

11 Let's talk about Treveon Anderson. Treveon Anderson,
12 you heard, was recruited by Anthony Turner to join this
13 conspiracy to participate in this robbery.

14 Now, you're going to hear -- you heard arguments
15 that, well, you know, both these men that came in and
16 testified, Mr. Turner and Mr. Aitch, have a powerful motive to
17 lie. Granted. And we've also told you, and everyone agrees,
18 that they're definitely criminals.

19 But the problem here is the phone companies don't
20 care. The phone companies don't care what the defense says.
21 They don't care what the Government says. That is the most
22 objective evidence you have in this case. And it's not mere
23 accident that those phone records confirm everything that
24 Mr. Aitch and Mr. Turner told you about their participation in
25 this robbery and kidnapping. That's not accident. That is

1 confirmation of everything that they told you from the stand as
2 far as the important points of who was involved in the robbery,
3 when they came up.

4 This isn't something where people are coming up
5 coincidentally at the same time from Houston to Dallas at 3:00
6 a.m. in the morning. All these guys rode into town together.
7 They all came up together.

8 And it's not a coincidence that Mr. Anderson's phone
9 was turned off from 9:00 a.m. to 12:00 p.m. at the time that
10 all the vans were being stolen and the robbery is taking place,
11 and then suddenly it gets flipped back on at mid -- at noon,
12 excuse me.

13 But, instead, what are you brought? You're brought
14 basically an equivalent of "where's waldo?" for cell phones.

15 Does it really sound credible that the phone went up
16 to Dallas but the person didn't? Is that what we're supposed
17 to believe? It makes no sense.

18 Let's talk about Mr. Hatchett and things being taken
19 out of context. First of all, there is nothing wrong that
20 Agent Ibrahim didn't arrest Mr. Hatchett until three-and-a-half
21 years later. It was a careful investigation. It was
22 painstakingly put together.

23 That's the kind of agent that you want out there
24 working. You don't want somebody that jumps the gun. You want
25 somebody that puts everything together until there's enough to

1 make an arrest, to bring it into court and to prove it beyond a
2 reasonable doubt. And I submit to you that's what's happened
3 in this case. And the fact that the phone records don't have
4 location data for Mr. Hatchett doesn't mean that he gets a
5 bonus.

6 And talking about taking things out of context, sure,
7 there were other phones from T-Mobile that we had location data
8 for, but as you heard from that stand repeatedly, different
9 people were arrested at different times.

10 There were people who were known very early on, as
11 defense counsel told you, because of DNA testing. Sure, we got
12 those phone records earlier than we got the other ones. And by
13 the time Mr. Hatchett was identified, there wasn't a way to get
14 the cell tower records, because T-Mobile didn't keep them for
15 more than a year at that time.

16 And if you want to look at the date on that return
17 for the subpoena for Mr. Hatchett's records, you'll see it's
18 well past a year from the date of the robbery.

19 You had Mr. Hilton Murdock Aitch, a man who's known
20 Mr. Hatchett for 20 years, come into court and say, "That's the
21 man that did this robbery with me. That is one of the people
22 that was recruited to come in and conspire to do the robbery
23 and the kidnapping."

24 And what are we supposed to assume? Okay. So we
25 gave you three days' worth of phone records, highlighted with

1 the relevant portion of time around the robbery. And now you
2 know that they also had contact earlier. What does that prove,
3 except that they actually had contact during the planning
4 stages of the robbery and the fact that they had contact
5 afterwards when the material was being fenced and the
6 distributions were being made.

7 And is it surprising really that they're friends? I
8 mean, who are you going to conspire with, perfect strangers or
9 somebody you're comfortable with?

10 And do you think it's mere happenstance or
11 coincidence that he happens to be on the phone with Terrence
12 Thompson, who you heard from the stand was one of the other
13 main planners of this robbery, and Hilton Aitch, again, who is
14 also a planner of the robbery or a main participant?

15 I talk to you about taking things out of context.
16 Just because Hilton Aitch testified from that stand that Ricky
17 Polk also had a role and went and got guns and was the person
18 that brought this -- this location to him as a possible robbery
19 target, is that in any way Hilton Aitch saying, "No, I wasn't a
20 leader or organizer in this robbery"?

21 Is that the best they've got? This is a very simple
22 case. It requires important decisions to be made by you, but
23 it is still a very simple, straightforward case.

24 This is not a case of guilt by association. This
25 isn't an association of guilt. The sole purpose for these

1 people to be contacting each other and working together on this
2 is to complete this robbery and this kidnapping.

3 Let's also talk about things taken out of context
4 when it comes to the Facebook records.

5 Even if you put aside the phone records for
6 Mr. Hatchett, you still have him saying, "I'm going out of
7 town. And if things don't work out, I may not be coming back
8 but at least I'll be out of my misery."

9 But if you look at those phone records -- excuse me,
10 the Facebook records, you will also see that when he says that
11 he waited around in some hotel room for Cheryl Austin, she
12 accused him of lying. There's no confirmation in those that he
13 was in Houston that day or thereafter.

14 And, again, talking about things --

15 MR. LUND: Objection. Shifting the burden of proof,
16 Your Honor.

17 THE COURT: Overruled.

18 MR. JUNKER: As to the evidence, let's also talk
19 about things taken out of context.

20 I apologize to the Court, to you folks, and to
21 defense counsel regarding the technical difficulties we've had
22 with photos in this courtroom. That's on me. That's my fault.
23 But you've got the originals. You'll be able to look at them
24 when you go back to the courtroom [sic]. You look at the
25 photos of the bag of money. That's not just a one hundred

1 dollar bill laying on top. If you look at that carefully,
2 that's not a one hundred dollar bill snugly fit in a small bag.
3 You can see other money underneath it.

4 And coincidentally, apparently, the stars align, the
5 moons came together, and all of a sudden Mr. Hatchett has all
6 that money not just after the robbery but also after the time
7 period where they would have made the first contact with a
8 fence to get money for the robbery.

9 And he doesn't say, "what do you get your girlfriend
10 for her birthday? A hundred dollar bill." He says, "A bag of
11 money."

12 So even he acknowledges when he posted it on Facebook
13 it is a bag of money.

14 Then you have the matter with the eyeglasses. You've
15 got an agent that focused on the video, watched it very
16 carefully, and also noticed that there were Facebook photos
17 showing that man wearing glasses that had a metal piece at the
18 same location as one of the robbers, that is also identified by
19 his co-conspirators as having been at the robbery scene. And
20 yet now it's again supposed to be coincidence? That's not
21 coincidence. That's confirmation of his presence at the
22 robbery scene.

23 This case was carefully put together to prove it
24 beyond a reasonable doubt, and what we ask you folks to do is
25 to take your time, be comfortable with your decision. But

1 we're asking you to render the only decision that is consistent
2 with the facts, the only one consistent with the law, and the
3 only one that's consistent really with what's right to do in
4 this case, and, that is, a verdict of guilty for both
5 defendants on all counts.

6 Thank you.

7 THE COURT: All right. Ladies and gentlemen, I left
8 a phrase out, and it was an important phrase.

9 Go back on page 2 of what you've got in the first
10 paragraph under "Burden of Proof," first paragraph, where it
11 says, "The law does not require the Defendants to prove their
12 innocence or produce any evidence at all." I left a phrase
13 out, and it's a critical phrase. "And no inference whatever
14 may be drawn from the decision of a defendant not to testify."
15 So I'm adding that in.

16 You will actually get -- this is the document. I'm
17 not going to change all 13 pages that came to you. But this
18 will be in the actual document you will get, which will be the
19 charge that you will work from. So I want to make sure you
20 look at that page and see that with regard to that.

21 Now, back -- turn back to the "Post Argument
22 Instructions," which are on page 25.

23 "To reach a verdict, whether it is guilty or not
24 guilty, all of you must agree. Your verdict must be unanimous
25 on each count of the Fifth Superseding Indictment. Your

1 deliberations will be secret. You will never have to explain
2 your verdict to anyone.

3 "It is your duty to consult with one another and to
4 deliberate in an effort to reach an agreement if you can do so.
5 Each of you must decide the case for yourself, but only after
6 an impartial consideration of the evidence with your fellow
7 jurors. During your deliberations, do not hesitate to
8 reexamine your own opinions and change your mind if convinced
9 that you were wrong. But do not give up your honest beliefs as
10 to the weight or effect of the evidence solely because of the
11 opinion of your fellow jurors, or for the mere purpose of
12 returning a verdict.

13 "Remember at all times, you are the judges -- judges
14 of the facts. Your duty is to decide whether the Government
15 has proved that the Defendant is guilty beyond a reasonable
16 doubt.

17 "In a few minutes, I will send you to the jury
18 deliberation room with this charge and the exhibits the Court
19 has admitted into evidence. When you go to the jury room, the
20 first thing that you should do is select one of your number as
21 your foreperson, who will guide your deliberations and will
22 speak for you here in the courtroom. Do not deliberate unless
23 all of you are present in the jury room. In other words, if
24 two or more of you go to lunch together or are together outside
25 the jury room, do not discuss the case.

1 "A verdict form has been prepared for your
2 convenience. The foreperson will write the unanimous answer of
3 the jury in the space provided for in each count of the Fifth
4 Superseding Indictment, either guilty or not guilty. At the
5 conclusion of your deliberations, the foreperson should sign
6 and date -- date and sign the verdict.

7 "If you need to communicate with me during your
8 deliberations, the foreperson should write the message and give
9 it to the Court Security Officer. I will either reply in
10 writing or bring you back into the court to answer your
11 message.

12 "Bear in mind that you are never to reveal to any
13 person, not even to the Court, how the jury stands, numerically
14 or otherwise, on any count of the Fifth Superseding Indictment,
15 until after you have reached a unanimous verdict.

16 "So ordered.

17 "Signed," today, "October 24, 2018."

18 And then the verdict forms are attached behind that.
19 You will see that.

20 And it reads first with regard to Mr. Anderson in
21 Count One, conspiracy to interfere with robbery, either guilty
22 or not guilty.

23 Count Two. Interference with commerce by robbery,
24 either guilty or not guilty.

25 Count Three. Using, carrying, or brandishing a

1 firearm during and in relation to a crime of violence.

2 And then it's broken down.

3 "Do you find the Defendant brandished, or aided and
4 abetted another person in brandishing, a firearm during the
5 commission of the offense?" Guilty or not guilty of the
6 offense charged.

7 "And if you answered 'not guilty' in the previous
8 brandishing question, do you find that the Defendant used or
9 carried, or aided and abetted another person in using or
10 carrying, a firearm during the commission of the offense?"

11 And you will either put guilty or not guilty of the
12 offense charged.

13 And then kidnapping, guilty or not guilty.

14 And Five, kidnapping, guilty or not guilty.

15 And it will be signed by the Presiding Juror.

16 And Jimmy Hatchett, it's exactly the same form, just
17 with regard to Mr. Hatchett.

18 So go back now in the jury room and begin your
19 deliberation. I'll send the charge back in a brief moment.

20 And, Mr. Anderson, if you -- Mr. Anderson, if you'll
21 remain here in the courtroom.

22 You haven't done anything wrong. You're the
23 alternate juror, and you won't be able to deliberate, but I
24 never tell jurors that until the very last minute. It's just
25 what the law is.

1 So I didn't want y'all to think there was anything
2 wrong with Mr. Anderson. He'll just get to go -- to leave at
3 this time.

4 So I'll talk to you just a minute by yourself, and
5 then everybody else go back in the jury room.

6 Mr. Anderson, if you'll come right up here.

7 Thank y'all very much.

8 SECURITY OFFICER: All rise.

9 (Jury out at 11:43)

10 THE COURT: Okay. All right. Let's bring the jury
11 in. We've got a verdict -- verdicts.

12 (Pause)

13 SECURITY OFFICER: All rise for the jury.

14 (Jury in)

15 THE COURT: All right. Y'all be seated.

16 Mr. Neber, did the jury reach a verdict?

17 PRESIDING JUROR: Yes, Your Honor.

18 THE COURT: Mr. Neber, you're the foreman, right?

19 PRESIDING JUROR: Yes, sir.

20 THE COURT: Okay. I'm reading the verdict of the
21 jury.

22 "We, the Jury, find the Defendant Treveon Dominique
23 Anderson:

24 "Count One: Conspiracy to Interfere with Commerce by
25 Robbery, guilty of the offense charged.

1 "Count Two: Interference with Commerce by Robbery,
2 guilty of the offense charged.

3 "Count Three: Using, Carrying, or Brandishing a
4 Firearm During and in Relation to a Crime of Violence." And
5 they did find him guilty of brandishing, aiding, and abetting
6 another person in brandishing, a firearm during the commission
7 of the offense, guilty of that. So the second part didn't need
8 to be answered.

9 Count Four: Kidnapping, found him guilty of that in
10 Count Four.

11 And in Count Five, guilty of kidnapping.

12 And signed today, 24th of October, 2018, by Mr. Peter
13 Neber, foreperson of the jury.

14 If that's the unanimous verdict on each count, each
15 and every one of the jurors raise your right hand.

16 Let the record reflect each and every one of the
17 jurors raised their right hand, reflecting that is their
18 unanimous verdict.

19 with regard to the United States of America versus
20 Jimmy Hatchett, "We, the Jury, find the Defendant Jimmy
21 Hatchett, in Count One, Conspiracy to Interfere with Commerce
22 by Robbery, guilty."

23 "Count two: Interference with Commerce by Robbery,
24 guilty."

25 "Count Three: Using, Carrying, or Brandishing a

1 Firearm During and in Relation to a Crime of Violence." And
2 they found him -- it said, "Do you find the Defendant
3 brandished, or aided and abetted another person in brandishing,
4 a firearm during the commission of the offense?" Found him
5 guilty of that.

6 Didn't have to answer the second half. That was all
7 under Count Three.

8 Under Count Four, kidnapping, found him guilty of
9 that.

10 And in Count Five, guilty of kidnapping.

11 Signed the 24th day of October, 2018, that's today,
12 here in Dallas, signed by Peter Neber, Presiding Juror.

13 If that's the unanimous verdict of each and every one
14 of the jurors, raise your right hand.

15 I do receive and accept your verdicts.

16 Thank you. Put your hands down.

17 Let the record reflect each and every one of the
18 jurors raised their right hand with regard to both of those,
19 that there being unanimous verdicts as to each count in finding
20 each of the Defendants guilty on each count.

21 I do receive and accept your verdict, and you are
22 discharged.

23 Thank you very much for being here.

24 You don't have to come back until you get another one
25 of those little notices in the mail.

1 I can't thank you enough. It didn't take a long
2 time, but it's critical and it's important to our system that
3 folks like you take out of your normal lives and, you know, set
4 aside everything going on and being -- come down here and be
5 willing to be part of that. And you would want that if you
6 were involved in a case, and so it's important to do it.

7 I hope we didn't abuse your time too much. You have
8 been very good listeners, and I appreciate your time here.

9 I hope that you have a wonderful Thanksgiving coming
10 up and other holidays coming up, Christmas and Hanukkah and
11 Kwanza and the other holidays that are all coming up and --
12 that's right. I think that's all that I know about.

13 But y'all really have done a great service. And
14 isn't it unique to see folks from all different walks of life
15 become a part of that. That's a great thing to see in our
16 system.

17 I will come back there in a minute if y'all have
18 questions. You don't -- it will just be a minute before I come
19 back there.

20 And then if you want to ask me questions, those that
21 I can answer, I will; and if I can't, I will not do that.

22 But I don't -- you won't hear from anybody else
23 unless I give them permission. And nobody has requested that
24 yet.

25 So thank y'all very much, and I appreciate it. And

1 if you'll wait back there, I'll be back there in about two
2 seconds.

3 Thank you very much.

4 SECURITY OFFICER: All rise.

5 (Jury out)

6 THE COURT: Okay. The presentence report on each of
7 your cases will be due January 9, 2019.

8 Written objections will be due January 23, 2019.

9 And after those, if there are objections made, the
10 Probation Office must disclose any addendum by January the
11 30th, 2019.

12 And any written objections to the addendum must be
13 filed by February 6, 2019.

14 Your sentencing, each of you, is scheduled for
15 9:30 a.m. on Wednesday, February 13, 2019.

16 And you have rights to appeal. Your lawyers will go
17 over that with you. And if, I'm assuming, you still need me to
18 appoint appellate lawyers, then I will do that at that time.

19 Is there anything else you need to put in the record,
20 Mr. Lund?

21 MR. LUND: I would ask if the Court is willing for us
22 to speak to the jurors.

23 THE COURT: Let me ask them if they want to, okay?

24 MR. LUND: I understand, Your Honor. Thank you.

25 THE COURT: All right. Anything else?

1 MR. MARTIN: No. No, Your Honor.

2 THE COURT: Anything else from the Government?

3 MR. JUNKER: No, Your Honor.

4 THE COURT: Okay. All right. well, I'll ask them
5 right now.

6 Thank y'all.

7 Stay on top of the appellate timelines, okay?

8 Thank y'all.

9 (Jury trial adjourned at 12:58)

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1 I, TODD ANDERSON, United States Court Reporter for the
2 United States District Court in and for the Northern District
3 of Texas, Dallas Division, hereby certify that the above and
4 foregoing contains a true and correct transcription of the
5 proceedings in the above entitled and numbered cause.

6 WITNESS MY HAND on this 10th day of July, 2019.

7
8
9 /s/Todd Anderson

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